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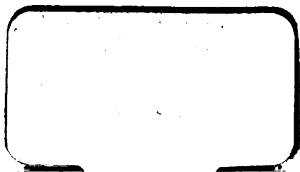
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THE CELTIC AND SCANDINAVIAN
ANTIQUITIES OF SHETLAND

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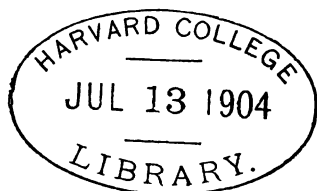
THE
CELTIC AND SCANDINAVIAN
ANTIQUITIES
OF
SHETLAND

BY
GILBERT GOUDIE
FELLOW OF THE SOCIETY OF ANTIQUARIES OF SCOTLAND

WILLIAM BLACKWOOD AND SONS
EDINBURGH AND LONDON
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Minot fund.

PREFACE.

THE history and antiquities of Shetland have at all times possessed for me an absorbing interest; and this it has fortunately been in my power to gratify, during a long series of years, in a practical way, by the excavation of ancient structures now in ruins; by discoveries of remains of the prehistoric age and of inscribed and sculptured monuments of the Celts and Scandinavians who in succession have occupied the islands; as well as by glimpses, often unexpected and curious, of local life in the olden time, which have rewarded the exploration of many musty records.

In the General Register House, in the Charter House of the City of Edinburgh, in the Advocates' Library, in the Sheriff Court depositories of Shetland, and in the charter-chests of old families of the county, many treasures in the line of my inquiries are stored. These treasures have all been readily and most courteously placed at my disposal whenever desired; and my best thanks are due to the public officials and private gentlemen who have been so willing in every way to aid me in my efforts. My regret is that limitations of my own time have compelled those researches to be so brief and so cursory.

The more important of the researches and discoveries made were from time to time, during the last thirty years, communicated to the Society of Antiquaries of Scotland,

and published in their *Proceedings*. At the urgent request of friends whose opinion I value these communications and other articles are now issued in a more accessible form. They have been arranged, not in the order of the dates of their original appearance, but in the chronological sequence of the different subjects.

An effort has been made to abbreviate to as large an extent as possible. Some repetitions and redundancies are, however, scarcely avoidable in a collection of articles written at different times, and all dealing with kindred, though varying, phases of the life and remains of the same district of country.

The discoveries and investigations of which this volume contains the record have been a fascinating portion of the recreations and of the studies of a not inactive life; and I trust that the pleasure which their pursuit has afforded to me will be shared in some degree by lovers of the history and traditions of the North. The islands may be remote and they may be bare; but I claim for them a rich and romantic interest that is essentially their own.

My acknowledgments are due to the Council of the Society of Antiquaries of Scotland and to the proprietors of the 'Illustrated Archæologist' for the use of the blocks which supply most of the illustrations of the work. It is also my duty to express very specially my indebtedness to Sir Arthur Mitchell, K.C.B., LL.D., to Dr Joseph Anderson, Dr Thomas Dickson, Mr J. Romilly Allen, F.S.A., and Mr James M. Goudie, J.P., Lerwick, for ever ready help and guidance in the labours of which this publication is the result. The kindly aid of other friends in this country and abroad is recognised from time to time in the text.

GILBT. GOUDIE.

31 GREAT KING STREET,
EDINBURGH, *January* 1904.

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INTRODUCTION.

THE discoveries and researches recorded in the following pages afford some illustrations of the successive stages of life and civilisation in the Shetland Islands in the distant past. They place before us silent, it may be, but yet significant memorials of the rude arts of the prehistoric ages; lapidary inscriptions and sculptured monuments of the Christianised Celts; runic tablets, and deeds and documents of the later occupying race, the Scandinavians; and, last of all, illustrations of the transition stages which bring us down to the borderland of our own times.

Of the beginning and early movements of human life in the islands we have no knowledge. We do not even know whether the Celts were the aboriginal inhabitants, or were the successors of an earlier race, or of earlier races. This, however, is a problem of ethnology upon which the archæologist is not called to pronounce. I do not therefore enter upon unprofitable speculation on such a question, but propose to confine myself to the objects of antiquity and matters of history which come before me, and to attempt to deal with these as best I may. Some of my inferences may be only conjectural, but it must be borne in mind that, in treating of times so remote, the archæological evidences are not always so conclusive as to warrant judgments which can be altogether free from doubt.

The PREHISTORIC PERIOD, treated of under the heading "The Pagan Period in the Stone, Bronze, and Early Iron Ages," when-

ever it may have begun, may be regarded as terminating locally, if not everywhere, in the islands, about the fifth and sixth centuries of the Christian era. To this period may be referred most of the varieties of Stone Implements and Weapons, and of the Grave-Mounds, the Cists, the Standing Stones and Circles, and, most striking of all, the massive round towers or "Brochs."

The next age, that of CELTIC CHRISTIANITY, may be assumed to date from about the fifth and sixth centuries, when stray hints of monastic annalists, fortified, as we shall now see, by archaeological evidence, would lead us to believe that the Christian faith and culture were introduced and spread by the missionaries of Ireland and of Iona. This Celtic Christian age must be looked upon as terminating with the conquest and occupation of the islands by the Norsemen in the ninth century. The characteristic remains of this age are Inscribed Monuments (in Ogham characters) and Sculptured Stones (decorated with figures and Celtic ornamentation). The antiquary may also discover in out of the way places early religious sites, and traditionally preserved dedications to well-known Celtic saints, while everything around bespeaks a distinct Scandinavian origin; and we are obliged to refer these Churches or Chapels, though every trace of them may have disappeared, to the Christian civilisation of this Celtic period.

The SCANDINAVIAN ERA commenced with the invasion of Orkney and Shetland by Viking rovers, followed in the ninth century (*c.* 872) by the conquest, under Harald of the Fair Hair, and the permanent settlement, of the islands thereafter by immigrants from Norway, as was the case about the same time with the Faroe Isles and Iceland. These Scandinavians arrived as Pagans, with Thor and Odin as their tutelary deities. Before them the Celts and their Christianity alike appear to have vanished; but sacred sites and glimmerings of the faith seem to have survived by tradition, until the newcomers were themselves Christianised by King Olaf Trygvissón, at and after the historical scene in the

bay of Osmandwall in Orkney in the year 1000. Under the new form of civilisation the delimitation of parochial boundaries, the erection of churches, and the settlement of parochial clergy on very much the same lines as now existing, began to come into operation by a gradual process, mainly under ecclesiastical administration from Norway. Concurrently with this development of the constitutional fabric of the Church, the native system of Law and Justice and of Local Government, founded closely on Norwegian models, grew into a well-established and carefully administered polity, the language remaining meanwhile essentially that of the mother country, with such dialectic variations as were unavoidable with the lapse of time and the proximity of disintegrating influences ever at work from Scotland.

This distinctively Scandinavian age terminated politically in the year 1468, when Orkney and Shetland were pledged to Scotland for the unpaid portion of the dowry of Margaret of Denmark, wife of King James III., a pledge which has never been redeemed, though, as will be shown, repeated attempts with that view have been made by the Danish Crown. In point of fact, however, the Scandinavian age in the islands may be said to have lingered on for a century later, or more, until near the close of the sixteenth century, when the Stewart Earls strove to complete the subjugation of the islands to Scotland, to suppress the native liberties, and to assimilate the laws and institutions of the country to those of Scotland.

Lastly, a number of Miscellaneous Papers on the history and antiquities of the islands show the gradual process of the transition from the ancient to modern forms, and at the same time the partial survival of the ancient language, laws, and usages until recently, when the primitive life and its accompaniments have almost wholly disappeared; the great body of the people, at all events in the country districts, remaining, nevertheless, the genuine representatives of the Norsemen who conquered and appropriated the islands. It is indeed probable that, notwithstanding the force of modern influences, not a few of the old cultivated spots (locally *túns*), with their enclosures of turf-dykes, still remain with little

alteration from the purely Scandinavian, if not indeed from the earlier Celtic, period. The "rigarendal," or run-rig, system of the ownership and alternating occupancy of the land, now almost entirely obliterated, was another singular survival from very early times.

The chronological and racial bearings of the subjects dealt with will be better understood by keeping in view this briefly sketched outline of the successive stages of life in the islands.

THE CELTIC AND SCANDINAVIAN ANTIQUITIES OF SHETLAND.

I.

THE PAGAN PERIOD IN THE STONE, BRONZE, AND EARLY IRON AGES.

WE have no reliable evidence of the existence at any time within the area of Scotland of the Palæolithic (or Early Stone-Age) man, and I have not been able to recognise in Shetland the relics of any race that can be safely asserted to be earlier than the Celtic or, as usually designated in its northern relationships, the "Pictish" race (locally "Pechts"). It is to this people that, in our present state of knowledge, I think we are justified in referring most of the remains of prehistoric antiquity to be found in the islands. My belief is that the remains of the Neolithic period in Shetland are of later date than the similar remains in southern Britain, the probability being that this early civilisation in Britain passed from the south northwards and not from the north southwards.

The prehistoric antiquities of Shetland may be conveniently described under the heads of **STONE IMPLEMENTS**, **GRAVE-MOUNDS**, **CISTS**, **STANDING STONES**, and **CASTLES** (or "Brochs").

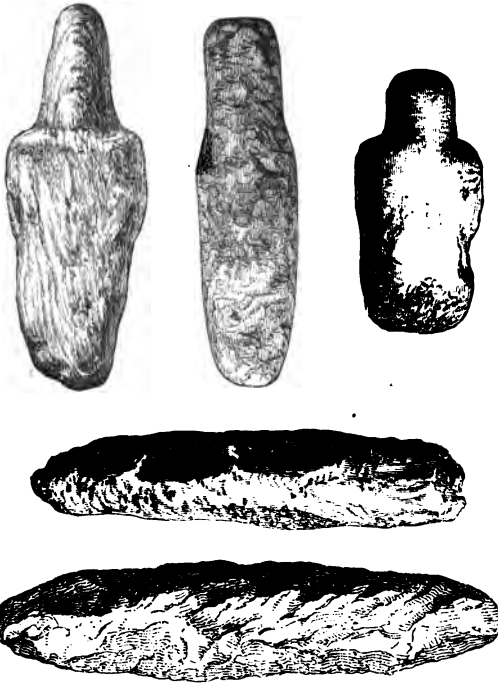
I. STONE IMPLEMENTS.

These are of two kinds, the roughly chipped and the finely polished. The latter class, as will afterwards be shown, has for

ages been well known in Shetland, as in many other countries, but it is only of recent date that the rude form of implements has attracted notice and come to be recognised as a special type. A few such implements had been found in Orkney, and were described by Mr George Petrie in his paper submitted to the Society of Antiquaries of Scotland in March 1867. But some years before that date the first hoard, as it may be termed, which had ever been observed was discovered, now forty years ago (in 1863-64), beside the house of Braefield, my own family place, in the parish of Dunrossness, Shetland. The spot would appear to have been a regular manufactory, for so numerous were these implements found to be, after their character was first noted, at every place in the immediate surroundings of the house and garden where the soil was disturbed, that a cartload might without much difficulty have been secured. In 1866 I brought away some specimens, and on submitting them to Dr (now Sir Arthur) Mitchell, I was not a little surprised to find that a precisely similar hoard of these implements had in 1865, the year after our discovery, been come upon by Dr James Hunt, then President of the Anthropological Society of London, and himself, at Safester, in the parish of Sandsting, forty or fifty miles distant from Braefield, in the course of some excavations conducted by them there. The result of these discoveries was the presentation to the Society of Antiquaries by Dr Mitchell, in February 1867, of his paper on "Rude Stone Implements from Shetland," which described, with engraved examples of the stones, the two remarkable finds at Safester and at Braefield. These rudely shaped stones are now a marked, if still mysterious, feature among the prehistoric antiquities of Shetland so largely represented in the National Museum. It may be sufficient to present those figured on p. 3 as illustrative examples.

In addition to such roughly shaped implements as the above, the true character and object of which cannot as yet be said to be ascertained, there are many rudely formed implements and vessels of stone, of different kinds, come upon from time to time on ancient sites in Shetland. Among these are hammer-stone, stone "whorls" for spinning, whetstones, scooped-out stones for rubbing grain (with the rubbing-stone sometimes found close by), apparently from a

time anterior to the invention of the quern, or grinding-stones, and stone vessels (usually of steatite), for cooking, or holding water, milk, or oil, or for other domestic purposes. In addition to these I may refer to one other example, a club-like implement found at Sound, near Lerwick, a number of years ago, and which, after being for some time in my possession, was added to the collection in the

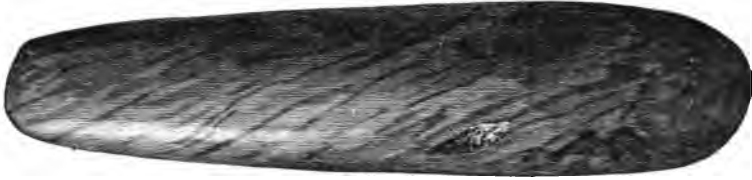


*Stone implements found at Braefield, Dunrossness, and at Safester,
in Sandsting parish.*

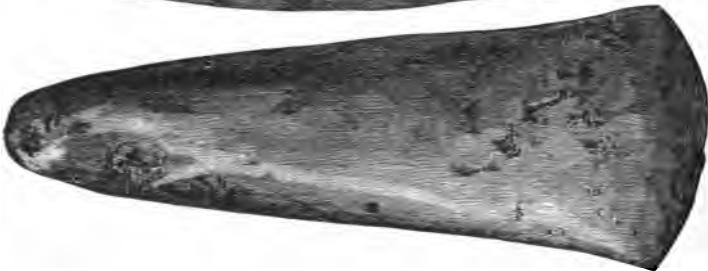
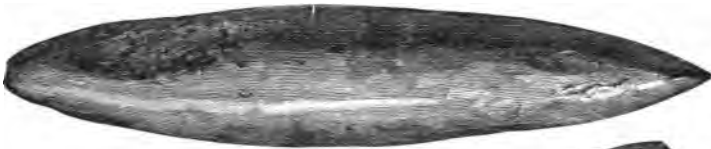
Museum. It measures 2 feet 9 inches in length and $8\frac{1}{2}$ inches in greatest circumference. Its form is that of a flattened cylinder, with both ends rounded. It has what may be called a "handle," which is more cylindrical than the rest of the implement, and is only $6\frac{3}{8}$ inches in girth. The "handle" and another portion, of about 6 inches in length, have been blackened by some process



Celt of serpentine
(11½ inches in length).



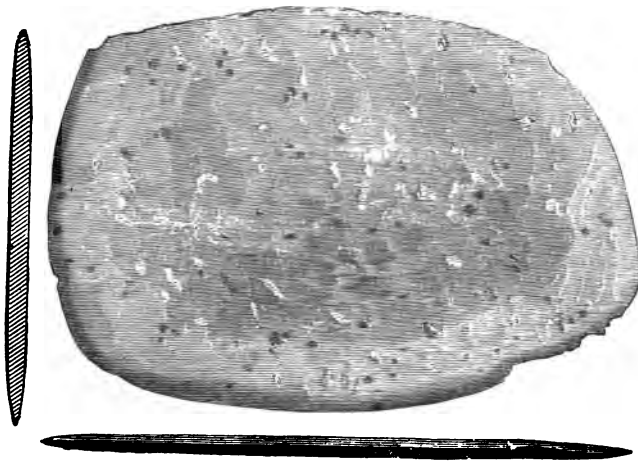
Celt from Cummingsburgh
(10½ inches in length).



Celt of porphyry
(11 inches in length).

which has left hardened minute flakes of a jet-black tint in the hollows of the striations of the stone. The purpose of this singular implement, the longest ever discovered in the islands, it is very difficult to surmise.

The implements of polished stone are of a different type from the foregoing. Their original use having been entirely lost sight of, they have for long been known in Shetland, as elsewhere, as "thunderbolts," and have been regarded with superstitious veneration.



Oval polished stone knife.

tion. In gracefulness of outline and fineness of polish the specimens from Shetland are not excelled by those from any other quarter. Those figured on p. 4 may be taken as illustrative examples.

Much mystery is still involved in the problem of the object and method of using these elaborately polished stones. They may have been turned to account as useful implements for cutting and shaping timber or other substances in time of peace, and as weapons in time of war; or some for the one purpose and some for the other. The mode of fixing them in the haft or handle seems also at first sight to present a somewhat formidable difficulty; but examples in use in modern times in the South Sea Islands and elsewhere, preserved

in all our museums, show clearly how the securing the implement to the handle can be accomplished.

The STONE KNIVES of Shetland are another very singular production of the Stone Age, though it is possible that their use, like that of other objects, might have continued into the succeeding ages of Bronze and Iron. They are usually of some kind of porphyritic stone, irregularly shaped, but ordinarily more or less resembling oval or semicircular discs, thin, with a sharp edge. Their special interest lies in their entire uniqueness, for they are not known ever to have been found outside of Shetland. A characteristic example will be found illustrated on the previous page.

2. GRAVE-MOUNDS, CISTS, and STANDING STONES.

Artificial mounds are very common in Shetland; but though many have had the hands of the explorer laid upon them, scarcely any well-authenticated accounts of such investigations are on record. It may perhaps be pretty safely assumed that they are mainly sepulchral, either in the form of inhumation or cremation; but whether containing cists or chambers, or whether commemorating Pictish chiefs or Viking warriors, can only be determined by excavation and examination of their contents, in each individual case, though my own opinion is that they are mostly of the earlier age, and therefore rightly classed here under the Celtic head of native antiquities. I have expended some labour and outlay on one mound, the "Bokie (*i.e.*, Bogie) Brae" or "Knowe of Willol," near Clumlie, in the parish of Dunrossness. So far as my investigations went, only a cairn of burnt stones was encountered. Since that time the mound has been levelled to the surface for the purpose of road-making; but there is every probability that one or more cist-burials may yet be discovered at some distance beneath the now exposed original surface.

My experience of CIST excavation is limited. One situated on the apex of the hill of Virdifell, in the same parish of Dunrossness, I had cleared out about thirty years ago. It was composed, in the

usual way, of two end and two side upright stone slabs, and the enclosed space, which was almost square in shape, was so small that if it was a case of inhumation the body must have been in a doubled-up position. If cremation had been used, there was ample room for a cinerary urn, with any other accompaniments deemed necessary. This cist, in its exposed position, might have been tampered with at some earlier period; but as it was now practically on the present surface of the ground, and subject to all variations of temperature, its contents must have been liable to comparatively early decay and destruction, and, in point of fact, no remains or relics of any kind were found.

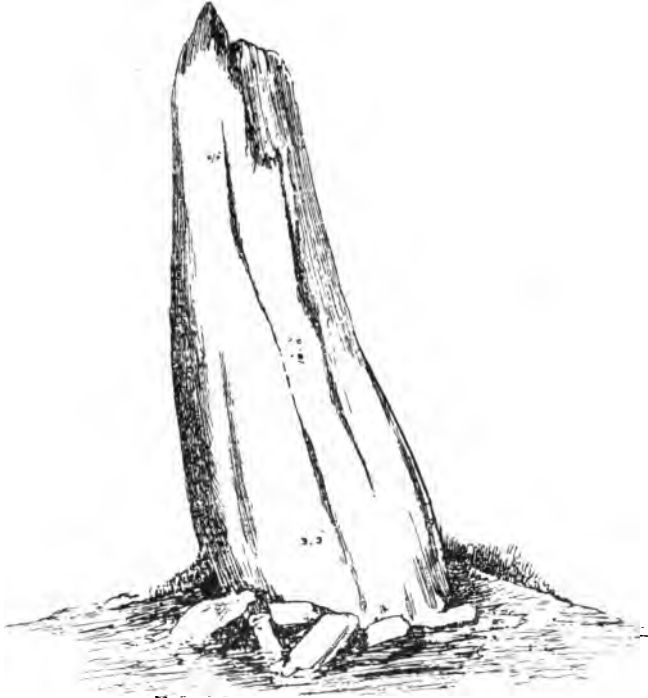


Clay urn found at Quarff ($\frac{1}{4}$ size).

I also spent some time at what was apparently a cist close to the village of Clumlie, on the south side. The interment might have been at a greater depth than the digging reached, for nothing of interest was come upon except numerous fragments of pottery and several small worked stones. In the valley of Quarff the Rev. David Johnston lately laid bare a number of cists and discovered an urn of steatite and another of clay, both now in the Museum, and figured in the *Proceedings*, April 9, 1900.

STANDING STONES are common in Shetland as elsewhere. They

are relics of the prehistoric ages, and I venture to class them under the head of Celtic remains, though their purpose and the dates of their elevation will for ever elude the boldest surmisings of human curiosity. Some light upon the mystery of their origin might possibly be furnished by careful scrutiny of their immediate surroundings after digging around them, but it is not known that any



Standing stone of Clivocast
(10 feet high, 3 feet 5 inches wide at base).

attempts of this kind have ever been made in the islands. The above stone at Clivocast, in the island of Unst, was figured by the late Mr James T. Irvine, architect, and appears in vol. xxi. of the *Proceedings* of the Society of Antiquaries, p. 216.

The last, and most striking, illustration of the Pagan period in Shetland is Pictish Castles.

3. PICTISH CASTLES (OR BROCHS).

The remarkable round towers, with the remains of which the islands of Orkney and Shetland and also some of the northern and western counties of Scotland are studded, have evoked much interest among Scottish antiquaries in recent years. Though little known as yet to students of antiquity in England, the question of their date and origin was some years ago the subject of controversy between the late Dr James Fergusson, author of the 'History of Architecture,' and Dr Joseph Anderson. Fergusson, who sought for historic explanations for all monuments of antiquity, contended that these broch structures were the work of the Scandinavians who conquered the Scottish isles and north mainland in the ninth and succeeding centuries, an opinion propounded by Pinkerton at a much earlier date. Anderson, on the other hand, with the concurrence of those in Scotland who claim practical acquaintance with such remains, held that they must be referred to the Celtic predecessors of the Norwegian conquerors. No buildings of an analogous kind had ever been found in Norway; and the relics discovered in, or in association with, these towers have for most part been of an earlier period than the Scandinavian era in the islands, and of a type that is essentially Celtic.

It has been assumed, as regards the date of these structures, from the absence of reference to them by Roman writers, and other circumstances, that they are post-Roman, but earlier than the time of the permanent occupation of the islands by the Scandinavians, which took place fully a thousand years ago. But the facts and the probabilities of the case seem to me to warrant our assigning them, or many of them, to a more remote date,—it may be as far back as the commencement of the Christian era, or earlier.¹

¹ My contention here and elsewhere as to the great antiquity of the brochs has now been conceded by some of the leading authorities. Dr Joseph Anderson, in an article on Broch Excavation in Caithness (*Proceedings*, S.A. Scot., Feb. 11, 1901), states that it is clear that the occupation of the brochs dates back at least to the "Late Celtic" and Roman periods, times which may stretch as far back as to the commencement of the Christian era or to centuries earlier, which is all I claim for them. On the other hand, when we consider the ingenuity of their design, the

The partial preservation of a few of these remarkable structures is due in some measure to their inherent strength, but mainly to their isolated position. While those that remain are, for the most part, in outlying districts of the north mainland and isles of Scotland, a few examples, almost identical in general design, so far as they remain, have in recent years been discovered in the more southern districts, which were at one time equally the domain of the Picts. In all the circumstances we may safely assume that these massive round towers (*duns* in Celtic diction, *borgs*, or "brochs," in that of the Norsemen) are the characteristic strongholds distributed for a lengthened period over the greater part of the area of Celtic Scotland.

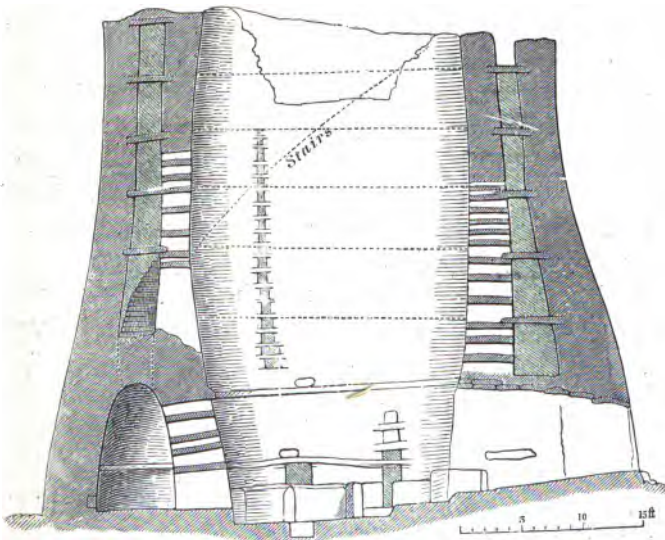
The Castle of Mousa, in the island of that name in Shetland, is the most perfect of these towers now remaining. It still stands to a height of about 40 feet; and it, with the corroborative testimony of the towers at Glen Beg in Glenelg, Inverness-shire, and at Dun Carlaway in the Lews, which are yet preserved to a considerable height, has been accepted as the typical example of the whole. Mousa is, however, one of the smaller specimens; and the lower portions which remain of some of the others exhibit slightly different details of construction as regarding both the main building and the interior ramparts and subsidiary, and most probably secondary, erections which in many cases surround them.

While therefore it is difficult, from the very limited number of examples remaining in an adequate state of preservation, to formulate a definite description that may be entirely applicable to all these edifices, one general plan is everywhere observable; and their aptitude for shelter and defence, in a primitive system of warfare, is strikingly apparent.¹ The mystery surrounding their origin, the massiveness of their construction, the fact that they are perhaps the highest expression of the method of dry-stone building (without cement or proper mortar), and the resources of skill and labour necessary for their production, sometimes in considerable numbers in what are now single parishes, we are altogether staggered at such evidence of an apparently advanced state of civilisation and of organised power in defensive effort which it is difficult to assign to a vastly remote date, or to an extremely primitive state of social existence.

¹ Two occasions are on record on which the Castle of Mousa (*Moseyaborg* of the Sagas) was occupied as a place of shelter. The one when, as related in the Saga of Egil Skallagrimson (about A.D. 900), Bjorn Brynjulfson, in his flight from



1. *Castle of Mousa.*



2. *Sectional elevation of the Castle of Mousa.*

people by whom they were occupied, and the modes in which that occupancy shaped itself in times of peace and of war, adds greatly to the interest which as early architectural relics they possess. In a word, they may be regarded as among the most ancient and most remarkable remains of antiquity to be found in this or in any other European country.

Externally these structures were simply large round towers of undressed masonry, with an inward "batter," and truncated at the top. The door was the only external aperture, though there are exceptions to this ; but the feature which renders them unique is the structural arrangements of the main wall. This wall, varying from 12 to 20 feet in thickness at the foundation, enclosed a central area of from 20 to 45 feet in diameter (at Eden's Hall, in Berwickshire, 56 feet). It is usually built solid to a height of 10 or 12 feet, packed with small stones and earth, and wholly destitute of lime, clay, or other cementing medium ; but this solid mass of the lower wall usually contained at least two chambers, besides the entrance passage from the outside and the commencement of the staircase to the upper floors.

When a height of 10 or 12 feet was reached, the wall, up to that point mainly solid, was continued to the top as a double wall, with a hollow space between of 3 to 4 feet in width. This space was utilised to form a series of horizontal galleries along the entire circuit of the tower, the flagged roof of each gallery serving as the floor of the gallery immediately above it. At Mousa a stair cuts through these galleries till it reaches the top, and galleries and staircase are lighted by a series of small openings to the central court. In other towers there are indications that the stair was different, if not somewhat more complex, in design.

Most of these towers have been demolished by the long corroding action of time and weather, and still more effectively by the hand of

Norway with Thora Roaldsdaughter, her father refusing his consent to their wedding, was shipwrecked on the island, and remained in the castle during the winter until he was able to proceed to Iceland. The other incident, about the year 1155, as told in the 'Orkneyinga Saga,' was when Erlend, with the widow of Maddad, Earl of Athol, went to Shetland, where he was besieged in the Castle of Mousa by her son Harald, Earl of Orkney, who found it difficult to take it by assault, as Erlend had "made great preparations."

man. For most part they are mere heaps of ruin, though in a few instances the lower portions of the buildings still rise above the mass of destruction around them. Sometimes they are found on the edge of cliffs overhanging the sea, unapproachable except by individuals singly, and thus easily defended. Sometimes they are situated on islets in lochs, and sometimes in the centre of quiet townships.

Many considerations connected with the Pictish towers are shrouded in a mystery which baffles our best efforts in the attempt to solve. Were they, in respect of property and possession, individualistic or communal? Were they, like all other castles we know of, the seats of local chiefs, district grandees? or were they tribal property for tribal use? It may be a question, further, whether their occupation was constant, or only occasional and temporary, as places of refuge and backbone of defence, in circumstances of emergency. How were they finished at the top, and was the central court covered in or left open?

These and cognate inquiries arouse our inquisitiveness and accentuate the mystery which surrounds the Pictish towers. It is not merely their architectural features, as monuments of vast antiquity, that interest us, but equally so the social problems and aspects of primeval civilisation that confront us in attempting to realise what their origin and use may have been. When one looks at the Castle of Mousa, as it at present stands, and as it has stood, according to the evidence of history, for at least a thousand years, and it may be for perhaps many centuries more; and when we attempt with the mental eye, as I have often attempted, to restore and repeople the numerous similar towers, the sites of which are at the same moment visible, the picture conjured up of human life, long passed away, in those far-off melancholy isles, is truly strange and bewildering.

The word "broch," or "brough," by which those ancient towers are now usually designated, was not, in its original significance, a specific term distinctive of any one class of structure. It is simply the Old Northern word *borg* (Anglo-Saxon *burg*, *burh*, a fortification), and was applied by the Scandinavians to those towers, as *burgh*, *borough* were applied by Saxon-speaking peoples to castles, places of strength, cities, in England, Scotland, and elsewhere. The

gradual phonetic evolution of the term is—borg, borch, boroch, broch. The last form, “broch,” has been adopted by antiquaries comparatively recently; but while convenient as determining the pronunciation, it is open to objection etymologically, and I prefer the spelling “brough,” which has for long been in universal use in the local place-names of which it forms a part—*e.g.*, Ilesbrough, Waterbrough, Foutabrough. Sometimes it is pronounced and spelt *burra*, as in Burraland, Burrafirth, Snaburgh. To seek for the term a Celtic derivation is fantastic.

Broch near Levenwick.¹

In Sir Robert Sibbald's ‘Description’ of the islands, published in 1711, this ancient castle is referred to in these words: “South and South-west from Leven Week (a large Mile distant) lye the Ruins of two Forts built by the Picts, upon a Rock, close by the Sea.” It does not appear to have been noticed in any published account since the time of Sibbald; but it was visited in 1855 by Sir Henry Dryden, Bart., the eminent archæologist, who did so much for the antiquities of Orkney and Shetland, and he carefully examined and measured the remains as they then stood. The tower, or “broch,” is situated in a desolate bit of hill-country, by the sea-coast, on the confines of the parishes of Dunrossness and Sandwick; and while uncertain to which of the two it of right belongs, I have ventured to assign it to the former parish.

The appearance formerly presented by the ruin was that of a mass of building material, or huge cairn, 10 or 12 feet high at the highest point, the course of the main circular wall being, however, distinctly shown, especially on the north side, where a portion of the outside face, of very substantial masonry, was exposed. The structure in its collapse had fallen mainly inwards and eastwards, so that the entire interior, as well as much of the surrounding ground, was blocked up with the fallen mass.

The excavation of this tower was my maiden effort in this description of work. As a schoolboy, armed simply with a spade, I essayed

¹ Recast and amplified from a paper submitted to the Society of Antiquaries of Scotland, 10th April 1871.

its exploration, but the attempt merely demonstrated the hopelessness of the undertaking without adequate means for accomplishing it. In the course, however, of a return visit to Shetland in 1869, I secured workmen and set to the excavation in earnest.

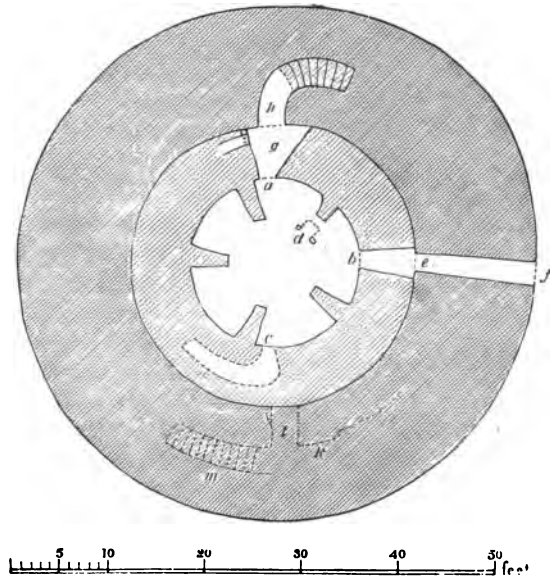
The result of not many days' labour was the removal of a large portion of the *debris*, and the laying bare of about three-fourths of the interior area to the foundation, bringing to light the curious internal arrangements of the structure, to be afterwards described, in a state of almost perfect preservation, except in so far as damaged at the moment of demolition or, since then, by the long-continued superincumbent pressure. It was not in my power to proceed further at the time, but in the two following summers (1870 and 1871) the work was resumed and partially completed.

When the heavier portion of the *debris* which remained had been cleared away, three openings to the inner face of the wall were exposed—one on the south, one on the north, and one on the east side, all on the floor level. The last of these proved to be the interior opening of the main entrance passage, and the entire passage was cleared out, first through the inner wall (or "scarcement") which was attached to the inner face of the main wall, and then, through the main wall itself, to its opening on the outside of the building on its east side facing the sea.

Two of the lintels of the passage remain in position, one over the opening to the inner area (see ground-plan, *b*) on the face of the "scarcement," the other on the inner edge (*e*) of the main wall. The rest of the passage is without remaining covering, and the sides gradually diminish in height as they approach the outer edge of the circle (*f*), where little more than the foundations of the main wall remain, the building having suffered its greatest dilapidation on this, the eastern, side. The length of the entrance passage, through the main wall and scarcement, is together about 19 or 20 feet. Its width at the opening in the inside of the main wall (*e*) is about 3 feet, and where it opens to the interior area (*b*) in the scarcement, only about 2 feet. The precise level of the floor at either point is not easy to determine, and the heights of the openings are not therefore given.

The opening (*a*) on the north side was next cleared out, through

the scarcement, where it widened into a triangular space (*g*) in front of a doorway on the inside of the main wall, $5\frac{1}{2}$ feet high, and nearly 3 feet wide, covered with a heavy lintel-stone. This doorway was found carefully built up, and the removal of this obstruction, and the clearing of the opening beyond it, was attended with much difficulty and danger from the dilapidated and unsafe condition of the building. The excavation was, however, proceeded with (after some hesitation by the excavators), and the opening proved to be



Ground-plan of Levenick Broch.

the entrance to the staircase (*h*), which, after the main entrance, was the first point of importance to be ascertained. Further removal of the blocking material enabled us to follow the gradually ascending staircase until daylight appeared above, when operations ceased in that direction, and the opening was carefully covered in, with a view to preservation of the building from any wanton injury. The width of the staircase is at first about 3 feet, from which it slightly diminishes as it proceeds upwards. It is roofed in the usual way by overlapping stones.

Owing to the ruinous state of the building, the further tracing of the stair was impossible at this point and for some distance farther. But it was clearly seen that the stair proceeds upwards to a height from the floor of 8 or 10 feet, where it halts, and is continued by a level gallery through the heart of the building towards the south, where it terminates (*k*) on the east side of an open space between the walls, where a large window (*l*) opens to the interior. On the west side of this space (*m*) the stair again starts for the next gallery, and fifteen steps of it at this point were laid bare, terminating on the top of the remaining portion of the main wall on the west side. Beyond this its farther trend upwards is of course mere conjecture.

The internal arrangements show an inner wall or "scarcement," about 6 feet in breadth, and on an average of about the same height, so far as entire, lining the interior of the main wall round the entire circle; and from it five walls, or pillars, at irregular distances apart, converging towards the centre of the area. In other brochs there are usually indications, more or less distinct, of these projections towards the centre; but in no other broch, except, perhaps, in that at Dunevan in Colonsay, have these been found in the almost perfect condition in which they were exposed here, almost exactly as they stood when the building was overthrown. Their length of projection inwards varies from $2\frac{1}{2}$ to $4\frac{1}{2}$ feet, leaving a clear central space, from 10 to 12 feet in diameter, between their inner opposite faces. On the north side of this space three slabs, set on edge, formed the back and two sides of what appeared to have been a fireplace (*d* on plan), with remains of ashes or of soft dust-like sand.

The approach to uniformity, particularly in breadth, and also in apparent height, of the "scarcement," or inner attached wall, is noteworthy, as in most other brochs it is either narrower, or of irregular breadth; and whether this wall and the projections from it towards the centre are parts of the original structure, or are secondary erections, cannot now be determined. It may not be improbable that the projections were a rude architectural device for diminishing the size of the central area to admit of its being more easily roofed in to form a covered protection against exposure to the

severity of the elements, an exposure from which the horizontal galleries in the centre of the wall would, to a large extent, be exempted.

The main wall of the tower, as already indicated, describes a circle, though not a perfect one. It is, as usual, a double wall, varying in combined breadth from 12 or 13 to 16 feet, and intersected by the staircase and a portion of the first gallery, as already described. Of the upper galleries none now remain.

A portion of a quern, and a quantity of animal bones and of decayed vegetable fibre were found, also a carefully worked stone, somewhat resembling a plummet, with a hole drilled in the smaller end. Mr Sadler, botanical demonstrator at the Royal Botanic Garden, declared that the vegetable remains consisted of two kinds of partially decayed timber, 1st, of Scots fir (*Pinus sylvestris*), and 2nd, of some hard-wooded tree, such as the elder or elm.

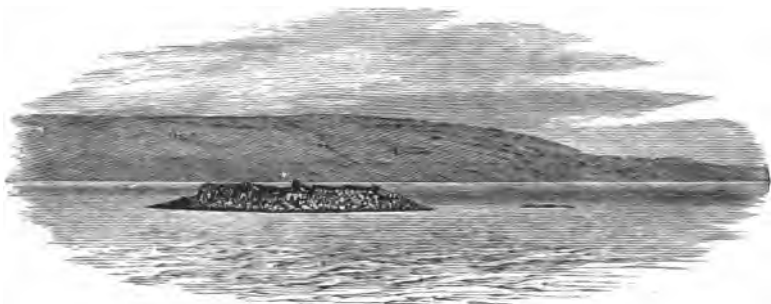
The time at my disposal did not admit of the work of excavation being further proceeded with. Though much yet remains to be done in clearing away the *débris* surrounding the base of the tower on its outer face, and in exposing the massive outworks,—and also in ascertaining the character and dimensions of the rambling hut-like structures which remain on the west side, and of the adjacent mounds which I dealt with only partially, and which may prove of great interest at some future time,—I am content with having cleared out the accumulated mass of ruin within the tower, and with ascertaining, as I think, the true character of its construction. This, while generally resembling that of the Castle of Mousa, is somewhat different, inasmuch as the stair would appear to be not a continuously ascending one, but to lead first to one stage, and then to be continued by a gallery proceeding around on a level to a distance of about one-half the circle, when it again ascends to a second, and probably similar, gallery, and so on.

Broch in the Loch of Brindister.

The loch of Brindister is a small sheet of water in a desolate moorland about five miles from Lerwick, on the main road to the south. It is at a height of 217 feet above the sea-level, and its

dimensions may be stated as nearly a half mile in length and a little more than a quarter of a mile in breadth.

Near the centre of the loch is a small holm, or islet, which, when the water is at full height, is in reality little larger than the area of the structure to be described. This structure, viewed from the margin of the loch, presented the appearance of a small, seemingly circular, ruin of no distinctly recognisable character. For ages it has remained practically undisturbed. No boat is near, and there has been little inducement to the trouble of bringing one from a distance. At no very remote period a man adventured to visit the islet by paddling his way in a tub, and perished in the attempt. Lerwick boys, I am told, have visited it occasionally, by swimming, for the purpose of harrying the nests of the common gull, its only occupants.



Islet in loch of Brindister.

When in Shetland in July 1888, I carried out a long-cherished project of making my way to the islet, with a view to determining the nature of the ruin. A boat was conveyed by road from Lerwick, and, after a careful inspection, an attempt was made, with some willing hands, to clear away so much of the *débris* as would admit of some definite indication being obtained.

The drawing, taken from a photograph, shows the loch with the islet and ruin before the latter was interfered with. The Ordnance surveyors appear to have examined it. At any rate, they have not hesitated to add to it the usually legitimate classification of such remains in Shetland by marking it as a "broch."

By the removal of loose stones along the outside of the building, which was found in a state of great decay, a broad circular wall of rough masonry, composed of blocks of schistose rock, was distinctly shown. The next step was to clear out the entrance, which was on the side facing the north, and this was done to a certain extent.

It now remained, after having also cleared partially the outer circuit of the main wall, to endeavour to determine the course of the wall on the inside. This was a matter of greater difficulty. The entire enclosed area was filled with *débris*, solidified and compacted by bird droppings, the sea-fowl having held possession, disturbed only at rare intervals, perhaps ever since the building ceased to be occupied. Sufficient displacement was, however, made to disclose, with greater or less distinctness, the inner circuit of the wall.

The general result of these partial excavations was to expose a circular wall of the following dimensions.

	Feet.
Height, at highest point	5
Thickness, varying, but usually about	8
Diameter of structure from outside to outside of wall—	
From north to south	50
From west to east	51
Width of doorway, 3 feet 9 inches to	4

Assuming the thickness of the wall to be from 8 to 10 feet, the open interior area would be 30 to 34 feet in diameter, quite a customary dimension in broch buildings.

The character of the building and the dimensions, so far as they go, are those of an ordinary broch, and I have little hesitation in assigning it to that class of structure. It is true that an 8-feet thickness of wall is narrow, but there are instances of such walls 9 and 10 feet thick, and a sufficient height of masonry is not left to admit of the special structural forms—staircase, chambers, &c.—being ascertained. The friable nature of the material employed, rough lumps of schist, worn and weathered with the blasts of ages, is ill adapted for a strong or lasting structure, and hence the state of confused decay.

Upon the whole, I am inclined to be of opinion that the wall

never reached an elevation approaching the supposed normal altitude of broch buildings (say 40 feet). The quantity of *débris*, little of which could ever have been removed, does not correspond with any safe assumption of a large cubic mass having existed on the spot.

But no such massiveness or altitude was demanded by the situation. The approach must have been almost inaccessible to an assailant, if the boat or raft for communication with the shore were kept moored by the castle side, as the transportation of floating material could not be but attended with trouble and difficulty. A moderate height of the circular rampart, or main wall, say 10 or 12 feet, would have presented a fairly adequate strength in the circumstances, to have enlarged which would have been unnecessary expenditure of energy. A fortalice of this kind may, I apprehend, be appropriately denominated a broch, though not exhibiting the full development of the normal features. It possesses, at any rate, the circular main wall of massive proportions, which is the first requisite of such structures.

Time did not allow me to pursue the investigation further, and I do not know that there is much occasion for doing so. It is, of course, possible that the clearing out of the interior might bring to light some relics of the occupants sufficiently interesting to repay the small expense required for the undertaking.

At no great distance in the same neighbourhood, Brindister, a broch of the usual massive character and dimensions, is situated on the brink of a high cliff overlooking the sea. The entrance doorway is on the outward face, so that hostile approach to it would be of enormous difficulty. One or two defenders at the entrance could thrust any number of assailants over the cliff into the sea below, as only one could approach at a time.

Broch of Clumlie, Parish of Dunrossness.¹

Clumlie, now a ruinous and almost deserted village, is a place of great antiquity, appearing as a predial settlement, in the same way as till recent times, in the earliest known rentals of the Lordship of

¹ This report is the condensation of a communication to the Society of Antiquaries of Scotland on 8th April 1889, and of an article in 'The Illustrated Archæologist,' December 1893.

Shetland, subject to its "skatt" and other duties payable to the island Earls. Not only is this the case, but, ecclesiologically, there seems to be evidence to carry it back to the era of Celtic Christianity prior to the advent of the Norsemen in the ninth century. On its north side on *Kurkifield* (*i.e.*, Kirk-field), as it is to this day termed, the site of a chapel, cell, or oratory is pointed out, dedicated, as we may venture to assume, to Columba, the primal saint of outlying districts of the west and north, whose very name the village or township seems to have absorbed in its own designation,—passing, by an easy transition, from the Celtic form *Coluimcillie* (as in Skye) to Columlie, Clombly, the loch and town of Clumlie or Columbalie. Little now remains that can be safely attributed to the Celtic period beyond the name, the site—which is entirely cleared—of the little district sanctuary, and the buried structure now partially disentombed, which has to be described. But the Scandinavian element, of which the modern is the legitimate successor, has left its imprint deeply graven on the soil around it. Every rig, rock, knoll, hill, or enclosure in the township bears its descriptive name in expressive Norse, of which the following, as examples, may be given, viz.:—

Name.	Probable form in Old Norse.	Meaning.
Lingard	Ling-gardr	Heather-farm.
Bu-gardsty yard	Bu-gards-teigr-gardr	Town-yard.
Yaback	Hjá-bakki	High bank, or ditch.
Stoorishon	Stor-shon	Big pool.
Ramnagio	Hrafna-gjá	Gio, or creek of ravens.
Vills	Vellir	Fields.
Virdifell	Vördu-fjall	Ward, or signal, hill.
Helliberg	Hellu-bjerg	Flat rock (by the sea).
Natshag	Nauts-hagi	Cattle pasture.

These are only a few of the Scandinavian descriptive names which have lingered on through the centuries, though their meaning has ceased to be understood, and some of them are already becoming unknown to the rising generation. The removal of one or two old families from the immediate neighbourhood would lead to their extinction, most of them being minor names which did not come under the review of the Ordnance surveyors, and are therefore not recorded on the map.

But for the present, in dealing with the ruined structure, we pass over a thousand years of Scandinavian occupation, and find ourselves face to face, as we shall see, with a substantial relic of the preceding Celtic inhabitants.

The natural situation is a rounded elevation rising gradually from the surrounding level, and terminating in a conical hillock, into the south side of which the ancient village, consisting formerly of several dwelling-houses and numerous attached office-houses, is built. The circumstance of so large a quantity of stonework buildings being centred at this spot was itself a significant indication of a quarry having been ready to hand, and the force of this indication was soon demonstrated.

Within all human memory, or human knowledge, this hillock, known as the "Brae of the North Yard," has been simply a huge grass-grown mound, the superficial layer, wherever exposed, being earth, and small stones closely compacted, and showing nothing suggestive of constructional remains being underneath. Judging, however, by perfectly legitimate analogy, the Ordnance surveyors in this case also came to the conclusion that the mound was a broch, and so designated it on the map. This was quite in accordance with my own belief; but it was impossible absolutely so to determine without evidence yielded by actual excavation: it might have turned out to be a chambered mound, like Maeshowe in Orkney, or New Grange in Ireland.

It was not until the month of July 1888 that I had an opportunity of putting the matter to the test. Some workmen were available at the time, and with the concurrence of Mr Bruce of Sumburgh, the proprietor of the ground, the excavation was proceeded with.

There was nothing to indicate any specially promising point to begin at. The first essay resulted in nothing; but in the next we speedily struck upon what proved to be a well-built doorway, very near to the surface on the east side. This doorway, which was obviously the main entrance to the structure, was blocked with stones and earth to near the top. This obstruction was cleared away, and, by further excavation at either side of the entrance, at the outside, the curvilinear form of the main wall soon became apparent.

Time and opportunity rendered it necessary that further operations should for the time terminate at this point ; but, with a fresh staff of willing workers and a small auxiliary grant by the Society of Antiquaries, the excavation was resumed in the summer of 1890, and was completed, partially, in the following year, 1891.

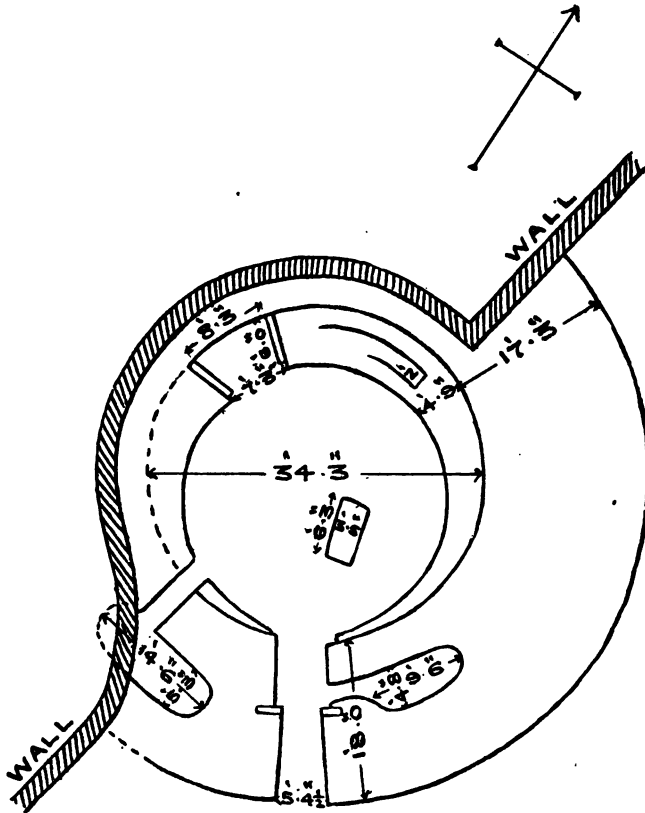
As the excavation proceeded it soon became evident that the apex of the mound, so long a mystery, was simply the upper portion of the wreck of a massive tower, and the continued removal of the earth and stones before very long laid bare not only the main circular wall of the tower itself, so far as remaining, but, when more fully excavated, the whole interior area, or central court, enclosed within the wall, and the two large chambers formed in the thickness of the wall itself.

The main wall, the inner face of which is preserved on the west side to a height of about 6 feet, varies from 16 to 18 feet in solid thickness. On the east side, while the inner face remains from 2 to 4 feet in height, the outer face, following the downward slope of the ground, was found gradually to diminish to a remaining height of less than a foot at the lowest point, except at the south-east, at the entrance to the interior, where it is about 5 feet high. The dilapidated outer face of the wall on the east side was to some extent replaced, as the easiest means of disposing of the building-stones which formed so large a portion of the excavated remains, and the result is to give an impressive idea of the size and massiveness of the tower when it existed in its original state of completeness. The whole inner face of the wall, looking into the central area, was scrupulously preserved in its original state, as shown in the view.

The entrance passage, through the thickness of the main wall, is 18 feet long and 5 feet high. The walls of the passage are entire, with the exception of two or three stones at the outer face. They are carefully built, of the usual kind of broch masonry, without mortar or cementing material. At a distance of 11 feet from the outside, two upright stones or jambs facing inwards form a doorway, 5 feet 2 inches in height by about 5 feet 6 inches, with the lintel *in situ*. Here, no doubt, the main defensive door of stone or wood was placed ; and on the right, immediately beyond these jambs, the usual guard chamber, entered by a small passage 2 feet above the

floor-level, was discovered and cleared out. Its greatest length is 9 feet 6 inches, and its greatest width 4 feet 8 inches. See the ground-plan.

On the south side of the central court the continuance of the excavation revealed a passage, leading into the interior of the wall,



Ground-plan.

which was found to terminate in a second large chamber formed within its thickness. Of this chamber the extreme length is 14 feet 6 inches, and width 5 feet 3 inches (see the ground-plan). The excavation of the chamber was attended with some difficulty, owing to its depth and narrowness, and the state of surface accumulations

around it, and was of more than usual interest. At a height of about $2\frac{1}{2}$ feet above the floor-levels ultimately reached, a cist, 2 feet square, consisting of bottom, side, end, and covering slabs, was discovered. The cover and sides were carefully bedded and jointed with clay, and the appearances indicated a deposit of special importance. The most careful examination of the earth and unctuous matter within was, however, unproductive of a definite conclusion as to its contents, all traces of organic remains having disappeared. The position of the cist, half-way from the bottom of the chamber, proved that the tower must have been in ruin long before it was placed there, and thus affords further distinct evidence of its great antiquity.

As is customary in these towers, an apparently secondary wall (sometimes inaccurately termed a "scarcement") is attached to the inner face of the main wall all round the circle. The purpose of this attached wall has not yet been clearly ascertained. In the present instance it begins at the right of the entrance passage at its inner end. Its breadth, at first only about 6 inches, gradually increases till it reaches the opposite side of the central court, where it is about 6 feet. At this point a recess is formed in it, 7 feet 3 inches wide at the face, enlarging to 8 feet 3 inches at the back, where the face of the main wall to that extent is exposed. In this recess, in accordance with the analogy of towers of similar design, the entrance to the stairs which lead through the galleries to the top of the edifice should be found, and this remains to be determined when the excavation is finally completed, if this ever be done.

The central area enclosed within the circle of the main wall was cleared to the floor-level. The wall does not describe a perfect circle, due, no doubt, to some extent, to bulging out caused by irregularity in pressure by the mass of ruin for ages resting upon it; and the diameter of the area, or central court, varies from 33 to 34 feet, about a dozen feet larger than that of Mousa, the typical example as usually represented. Including the thickness of the wall, the diameter from outside to outside will thus be about 70 feet.

In the broch of Levenwick the remains were found of four or five walls projecting 5 or 6 feet towards the centre of the area from the

inner face of the main wall or "scarcement," but no traces of such projections were discernible here. The only structural feature remaining within the court was a nearly rectangular depression in the floor, near the inner face of the entrance door, formed of stones 6 to 10 inches deep, set on edge. These stones were apparently injured by fire, and the space enclosed by them, about 7 feet in greatest length by 3 feet to 3 feet 6 inches in width, was floored



View showing main entrance and entrance to south chamber, as fully excavated.

with flags, covered by a thick deposit of ashes. The flags were broken, and crumbled away on being disturbed. This would seem to have been a fireplace.

No trace of a well has as yet been come upon. A carefully built drain leads from the court to the outside under the flagged floor of the entrance passage.

The relics found consisted of a large number of grain-rubbers, five whetstones of micaceous stone and two of sandstone, three whorls

(two of steatite and one of schist), several hammer-stones, numerous fragments of pottery, and of animal bones too much fractured for identification ; shells and stone implements of different kinds. The smaller and more interesting of these relics have been deposited in the Museum of National Antiquities, Edinburgh ; the others are mostly gathered together in the recess on the west side of the central court, as shown below. No metallic relic was found.

As the result generally of the excavation, it may be said that the central court and fully one-half of the main wall have been laid bare. Tenant-rights of surface, in the position of the remainder of the wall, rendered it impracticable to prosecute further excavation on the west side. But it is chiefly to be regretted that the main



Stone relics found in broch.

wall of the tower, no part of which remains at a greater height than about 6 feet, is so low as only to show the solid building of its lower stage. The distinctive features, stairs and galleries, were contained in the higher parts of the structure, which are gone. The roofs of the chambers have also disappeared.

In this long-buried tower, now at last again exposed to view, one may recognise the place of strength of a local magnate or of a small village community of vast antiquity. The dwellings of a few modern representatives still cluster around its ruins. As a community this has been successively, first, of pagan Celts, in probably the early ages of the Christian era or in pre-Christian times ; secondly, of Celts Christianised at a later period ; thirdly, of pagan interlopers from Scandinavia, who overran and absorbed those native Celts in

the ninth century, and in all probability were the demolishers of the tower, or, at all events, suffered it to fall into decay ; and, fourthly, of the descendants of those Scandinavians settled and Christianised in the century following. From that time the tower has come down through the Scandinavian and Scoto-Scandinavian period to the present day, first, as a picturesque ruin with the village comfortably sheltering at its base ; and, lastly, as a mysterious fairy mound, the contents of which had never been attempted to be explored.

The brochs in this parish of Dunrossness have been numerous. Not to speak of the Castle of Mousa, the most perfect in existence, situated in the immediately adjoining parish of Sandwick, which is ecclesiastically united to Dunrossness, there are, in Dunrossness proper, broch remains at the following places—viz., at Levenwick (on the confines of Sandwick parish), at Clumlie, at The Brough (near Boddam), at Scousbrough, at Lunabister, at Waterbrough, at South Voe, at the Broken Brough, at East Shore—nine in all, besides one or two more. None of these Dunrossness brochs have been touched by the explorer except those at Levenwick and Clumlie, which have just been described.

The nearest broch, on the south, to that of Clumlie, is at a small farm bearing the designation of, *par excellence*, The Brough. All is gone but the foundations of the main wall and the massive surrounding ramparts, which are on a scale, for size, surpassing anything of the kind elsewhere known to me. Not a stone is visible,—all being covered with soil, and grass-grown. The buildings of the cottage and offices adjoining are trifling in extent, and it is scarcely conceivable what can have become of all the stones of so great a structure. Their gradual removal must have been spread over an enormous period.

The number of these Pictish towers in Shetland, as specified by Dr Anderson in 1871, is seventy-five. Since then the sites of several others, including that of Clumlie now described, have been identified. Of these the castles of Mousa, Clickemin, Levenwick, and Clumlie have alone been systematically explored ; the rest remain, with scarcely an exception, untouched. Mousa and Clickemin have been measured and planned by Sir Henry Dryden, who has fully reported the details in vol. v. part i. of the ‘*Archæologia Scotica*.’

II.

THE CELTIC CHRISTIAN PERIOD.

I. INSCRIBED AND SCULPTURED MONUMENTS.

The St Ninian's (or "St Ringan's") Stone.¹

THE fact that Ogham-inscribed monuments have been found only in Celtic districts, or in districts where Celtic influences have at one time prevailed, invests with considerable interest the discovery of relics of this description in outlying districts where few Celtic traces now remain. Such is the case in the Shetland Islands, where the Pictish people and language have disappeared before the Scandinavian race and Teutonic dialect, which have held sway in the islands for more than a thousand years.

Only five specimens of Ogham-inscribed stones have hitherto been found on the mainland of Scotland.² In Ireland and Wales they are much more common. The Scottish Oghams consist of the well-known Newton Stone; the Scoonie Stone, presented to the Museum in 1866; the stone from the churchyard of Aboyne, a cast of which was added to the collection in 1873 by the Marquis of Huntly; the stone in the museum of the Duke of Sutherland at Dunrobin; and that at Logie-Elphinstone, Aberdeenshire.

In the year 1864 the Bressay Stone, a slab of chlorite slate richly sculptured in low relief, with an Ogham inscription on the edge, found in the island of that name in Shetland, was presented to the

¹ Communicated to the Society of Antiquaries of Scotland, 11th December 1876.

² More recently some other Oghamic inscriptions have been brought to light in Scotland.

Museum by the late Rev. Dr Hamilton. In 1871 a smaller slab, bearing the incised outline of a cross, with an Ogham inscription, found in the broch of Burrian, in the island of North Ronaldsey, in Orkney, was presented by Dr Traill of Woodwick; and, more recently, a fragment with two letters in the same character was found in the parish of Cunningsburg, in Shetland, by Mr Robert Cogle,—these discoveries thus adding Shetland and Orkney as a new province to the known domain of Ogham relics.

The Scottish Ogham monuments were thus in all eight in number—five from the mainland, one from Orkney, and two from Shetland—until the stones now exhibited were discovered in the summer of 1876.

The best known remains of antiquity in Shetland are the standing stones and sepulchral cairns, and the brochs or circular towers of the Picts, which have appeared so frequently in the *Proceedings* of the Society, and have contributed so largely to the collection in the Museum. But there is another class—the early ecclesiastical remains, which are also numerous, and not less interesting. In the island of Unst, twenty-four sites of churches are said to have been identified; and the other districts, if carefully examined, would probably show numbers in proportion, though in most cases the remains are in ruin or have entirely disappeared. Sir Henry Dryden, who has done so much for the antiquities of the North, has taken the measurements of a number of these remains in the northern districts; those elsewhere have been but little noticed.

On the west side of the southern promontory of the Shetland mainland, in the parish of Dunrossness, is the small isle of St Ninian's (locally termed St Ringan's), with the site of a chapel presumably dedicated to that saint, and which seems to have survived the Reformation, and to have been in existence within comparatively recent times.

If we except the account of the remarkable voyage of Nicolo Zeno, the Venetian, in the year 1380, the first detailed description of the Shetland Islands is given by Buchanan (1582),¹ in which no mention is made of St Ninian's Isle. It appears, however, as "S. Tronons Yle" in Timothy Pont's map, prepared about the

¹ *Rerum Scotticarum Historia*, apud Alex. Arbuthnetum. Edin., 1582.

year 1608, and published in the great atlas of the Blaeus of Amsterdam.¹ This may be read either as a misprint for St Ronon's Isle, or possibly as St Tronon's, seeing that St Ninian has been known in some other districts as St Trinyon.

In addition to the figure of a house surmounted by a cross denoting a church, there is adjoining to it, on the map, the mark indicating a mansion or hamlet—most probably the remains of what was originally a monastic residence, and latterly the dwelling of a resident priest or anchorite, but all which has now disappeared.²

The island is pretty accurately described by the Rev. Mr Brand, in the year 1701, as follows:—

“To the North West of the Ness lyes St Ninian's Isle, very pleasant; wherein there is a Chappel and ane Altar in it whereon some superstitious People do burn Candles to this day. Some take this Isle rather to be a kind of Peninsula, joyned to the Main by a Bank of Sand, by which in an Ebb People may go into the Isle, tho' sometimes not without danger.”³

The resemblance here to the Isle of Whithorn, the supposed site of the original Candida Casa of the saint, is striking. It, too, at present a peninsula, is, I believe, insulated at certain tides,—suggesting the idea that the founders of St Ninian's in Shetland were not unacquainted with the little isle in Galloway which was consecrated by the life and labours of the saint. Indeed, we know that he who was especially the Apostle of the Britons, and of

¹ *Orbis Theatrum Terrarum*. Amsterdam, 1654.

² I do not know to whom the island belonged prior to the middle of the seventeenth century. On 2nd August 1667, the lands (18 merks) were wadsetted to Laurence Stewart of Bigtown by James Sinclair of Scalloway, with consent of Arthur Sinclair, his eldest son, and Grizel Sinclair, heiress of Houss (Condescendence in Process, James Scott v. J. B. Stewart, 1779). In 1709 the isle was conveyed by Charles Stewart of Bigtown to his son John Charles Stewart (Register of Sasines, General Register House). In 1732 the property devolved to Clementina Stewart, then a minor, who, on her marriage in 1744 to John Bruce (Stewart), disposed the whole lands to him (Henry Blair v. J. B. Stewart, Nov. 18, 1783); and he, it is stated, demolished the remains of the chapel and built the retaining wall. It ceased to be inhabited about 160 years ago, when the peat fuel failed.

³ Brief Description of Orkney, Zetland, Pightland-Firth, and Caithness, &c. By the Rev. John Brand, 1701, p. 84.

the Southern Picts, was also revered as a father by the Celts of Ireland, to whom Whithorn was a favourite resort. And as on the mainland, close to the Isle of Whithorn, a splendid church and a priory were in the course of time erected, so we find that there was also on the adjoining mainland in Shetland, at Ireland,¹ very near to St Ninian's Isle, a church of more than usual pretension, the walls and steeple of which were standing so late as 1711.² There is reason to believe, on the authority of Brand (1701), that this was a church with a round tower, like the famous Church of Egilsey in Orkney; but I have sought in vain for any vestige of it, though the spot on which it is believed to have stood has been pointed out to me by natives, whose account from tradition is entirely consistent with what we learn regarding it otherwise.

Brand's description of St Ninian's Isle is repeated by Martin (1703), and in Sir Robert Sibbald's book, published in 1711, it is particularly referred to in much the same way. Dr Arthur Edmondston, the historian of Shetland (1809), gives it a passing notice, with an allusion to a tradition as to the church having been erected by a Dutch captain in acknowledgment of preservation from a storm at sea³—a tradition common to many similar sites in the islands, but which does not deserve serious notice. The isle is again referred to by Dr Hibbert (1822), who (quoting the Rev. Mr Low's MS. of 1770) states that—

"The lower storey of the kirk may be distinctly traced, which, having once been vaulted, is supposed to have served for a burying-place."

And lastly, Mr T. S. Muir, in his Ecclesiological Sketch, bewails the disappearance of these slight traces when he examined the site in 1862.⁴

In July 1875 I visited the island, in company with the Rev. J. C. Roger, in the hope of being able to trace some portions of the foundation of the chapel, and possibly of finding some relic of early

¹ A modern form of *Eyrr-land* (a place adjoining a gravelly bank by the sea-shore).

² Description of the Isles of Shetland. Sir R. Sibbald, 1711, p. 36.

³ A View of the Ancient and Present State of the Zetland Islands, vol. ii. p. 116.

⁴ Shetland. An Ecclesiological Sketch. Privately printed. 1862.

times. But scarcely a trace remained of the shrine of St Ninian. Time and, still more, the barbarous hand of man had accomplished its demolition, almost every stone, not earth-fast or beneath the surface, having been removed by a late proprietor, and built as a retaining-wall close by, at the only point where the isle is accessible—the termination of the beach of sand which connects it with the mainland. Though the chapel has thus disappeared, and the island is now entirely devoted to grazing purposes, the site retains a traditional sacredness in the eyes of the natives of the neighbouring mainland district, to whose forefathers it has been for many ages the last resting-place—interments having been discontinued only within the memory of the present generation.

All was desolation and silence except for the moaning of the waves, the screeching of sea-fowl, and the bellowing of cattle. The prediction popularly ascribed to St Columba, in reference to the future of his island sanctuary, seemed to be more literally fulfilled here than even in Iona:—

The time shall come when lauding monks shall cease,
And lowing herds here occupy the place.

Indeed there was some difficulty in prosecuting a search on the site, the cattle contesting possession of the ground, and tossing the skulls and trampling the bones which are strewn about the sand-blown surface, or protrude from beneath.¹ Some of the interments are evidently of great age; others are comparatively modern. Two tombstones now prostrate, bearing dates about seventy years back, and two smaller stones with rudely cut initials, were apparently the only inscribed monuments remaining. But on a more careful search I found embedded in the sand a monument of the earliest times—the Ogham-inscribed stone figured on page 36, and which I subsequently placed in the National Museum. Two other stones, similarly inscribed, I soon after found. They were fragments, somewhat defaced by exposure, and have since disappeared,

¹ It was on this spot, which, it appears, he had never seen, that Scott in 'The Pirate,' with a marvellous comprehension of the real character of the place, pictures the weird scene of Norna of the Fitful Head muttering her magic incantations, and searching in the sand for the bones of her ancestor Ribolt Troil.

but I hope to be able to recover them. The stones originally composing the fabric of the church, and now forming the retaining-wall before referred to, were also examined, but no carving or lettering was found. The stones are naturally smooth-faced and in regular layers, and have been brought apparently from the cliffs opposite on the mainland.

The Lunnasting Stone.

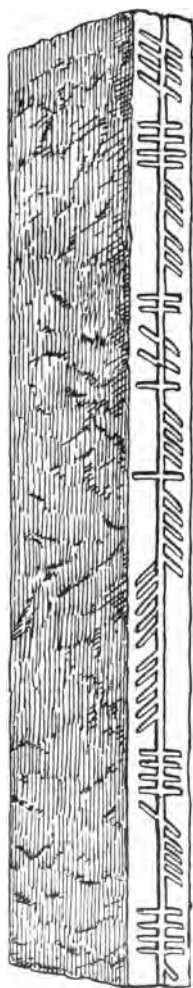
The attention of the Rev. Mr Rodger having, by the discovery of the stone at St Ninian's, been directed to the subject of such early inscribed relics, he within a month after our visit to St Ninian's Isle found in a cottage in the parish of Lunnasting, thirty or forty miles distant, a stone also bearing an inscription in Ogham characters, and which I also had the pleasure of presenting to the Museum. The inscription is in an admirable state of preservation; and it is remarkable that the stone, as stated by the former possessor, was found at a depth of 5 feet from the surface, in a moss at a distance of some miles from any known ruin.

We have thus, by these discoveries, an addition of two Ogham monuments (besides the two unrecovered fragments at St Ninian's) to the eight previously known to us as existing in Scotland. The St Ninian's stone is an oblong almost rectangular slab of sandstone 2 feet 6½ inches long, by 10½ inches broad, and 2 inches in thickness. The inscription is perfectly distinct, but unfortunately imperfect at one end, where the stone appears to be fractured.

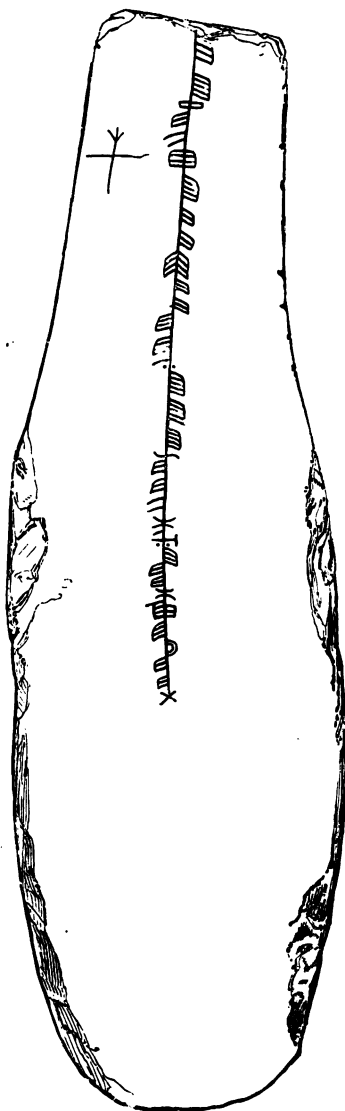
The Lunnasting stone is 3 feet 8½ inches long, by about 13 inches in breadth, and 1½ inch in thickness, and is inscribed on the flat surface.

The St Ninian's stone is a carefully prepared slab, such as would not be much out of place in a modern churchyard; indeed it is not improbable that its sides may have been sculptured, although by the scaling off of the surface no positive traces of this have been left. The Lunnasting stone, though a fine clay-slate, smooth-faced, is very much in its natural state.

Sir Samuel Ferguson of Dublin, the eminent Ogham scholar, pronounced the inscriptions to be most interesting specimens, and



St Ninian's Stone.



Lunnasting Stone—face.

undoubtedly Celtic, and Mr W. F. Skene, LL.D., concurred with that view.

The characters on both stones present divergences from the usual types on the Irish and Welsh monuments. In the case of the St Ninian's stone the inscription is on the edge; in the Lunnasting stone it is on the face; while more generally the *corner* of the stone is used as the *fleasgh* or stem-line. Again, in both stones there are letters formed by digits projected *obliquely* from the stem-line on either side, instead of at right angles to it; and in the Lunnasting stone, as in the Orkney one, the further ends of these strokes forming each separate letter are connected by a cross line. The Lunnasting stone also bears combinations and markings which seem to be entirely new. Apart from the inscription proper, there is an incised marking, resembling, at first sight, a rudely formed cross, the Runic character for M, or masonic mark; but though this strange figure is probably of cardinal significance in the interpretation, we are as yet without the means of determining its character or value.

These peculiarities present obstacles to interpretation by any of the common keys,¹ as explained in the ancient Irish manuscripts, and would seem to suggest the inference that these Shetland monuments and the Orkney specimen before referred to are examples of a system or school of Ogham writing in the Northern Isles founded upon the original Irish models, but developing in the course of time independent characteristics of its own. Attributing, however, to the characters the powers of those most nearly resembling them according to the ordinary alphabet, the St Ninian's stone reads—

(* * * *) ESMEQQNANAMMOFFEST

and the Lunnasting stone—

EATTUICHUEATTS : MAHEADTTANNN : HCCFFSTFF : NCDTONS ²

¹ Accounts and illustrations of the Ogham alphabet are given in the Book of Ballymote (written about 1370), the Book of Leinster, and the Book of Lecan; and fac-similes have been published by the Royal Historical and Archæological Association of Ireland. The Welsh Ogham monuments are figured in Hubner's great work, 'Inscriptiones Britannicæ Christianæ,' Berlin, 1876. The Irish monuments are described from time to time in the *Proceedings* of the Royal Irish Academy.

² Sir Samuel Ferguson, in his 'Ogham Inscriptions in England, Scotland, and

The latter especially seems a strange and inexplicable aggregation of consonants; but while a satisfactory rendering of neither stone has yet been got, I trust that ere long we shall be in possession of an explanation of their meaning which will restore to us, in all likelihood, the long-lost names of two Céli-Dé ("Culdees") or Pictish saints, these monuments seldom containing more than the mere name and father's name of the person commemorated; as in the celebrated bilingual stone found at St Dogmael's, near Cardigan, to the inscription on which that on the St Ninian's stone bears a marked resemblance, and which reads—

Sagramni maqi Cunotami

with the equivalent in Roman characters

Sagrani Fili Cunotami

=Sagrani the son of Cunotam.¹

The presence in some form of *meqq*, *meccu*, *maqi* (= "son"), which we find here and on the Bressay and St Ninian's stones, is a striking peculiarity very frequent in these inscriptions.

While we are thus as yet without a satisfactory interpretation of their inscriptions, what may we venture to assume as the historical import of these Shetland and Orkney monuments? It may be concluded, I think—

1st. That they are of Celtic origin.

2nd. That they are Christian memorials.

3rd. That their dates may be determined as prior to the Scandinavian occupation of the islands in the ninth century.

If these positions can be satisfactorily established, the stones have an important historical bearing; they stand before us as material

Wales (1887), gives an almost identical reading—viz., TTUICHEATTS : SEAMTTANN : HCFFSTFF : NEHHTONN : the last word, Nechton, a proper name; and Professor Rhys, in a revised reading (*Proceedings*, S.A. Scot., May 9, 1898), gives the interpretation as "King Nechtan of the Kin of Ahehhtmn." He also slightly varies his reading of the St Ninian stone, as follows—viz., BESMEQQNANAMMOVVEF—of which he gives, as a provisional interpretation, the rendering, "Wife of Mac N. Movvef."

¹ This stone is figured in the 'Archæologia Cambrensis' for April 1860, and in the 'Inscriptiones Britannicæ Christianæ,' *supra cit.* See also Mr Whitley Stokes's 'Three Irish Glossaries,' p. 56.

and indubitable proofs of a fact, the probability of which could only be based previously upon inference and conjecture—viz., that the Irish monks penetrated to these Northern Isles in the early middle ages, and that Christianity, introduced by them, flourished among the Pictish inhabitants long before the overthrow of the latter in the ninth century by the pagan Norsemen.

The introduction of Christianity in the Northern Isles is usually ascribed to the incident in the Bay of Osmundwall in Orkney, when, in the year 1000, the Earl Sigurd was compelled by King Olaf Trygvissón, at the point of the sword, to abjure Thor and Odin, and with all his men to accept instead the Christian faith and baptism.¹ Indeed the chronicles of the Norsemen would almost imply that the islands were not only destitute of Christianity, but actually uninhabited, before their arrival. "In the days of Harold of the Fair Hair," according to the 'Orkneyinga Saga,' "the Orkney Isles were settled," or colonised, "but previously they were a retreat of Vikings."² And the Saga of King Harold Harfagr, which describes more in detail the overthrow of those Vikings, wholly ignores in the same way the aboriginal inhabitants.

The existence of the Pictish islanders, whether eventually exterminated by, or amalgamated with, their Scandinavian conquerors, need not, however, be doubted. "The Orkney Islands were discovered *and conquered* (by Agricola), and Thule was seen," says Tacitus;³ according to Eutropius, they were added to the Roman Empire a short time before this (about the year A.D. 43) by the Emperor Claudius.⁴ "The Orkneys were steeped in Saxon gore, while Thule ran warm with the blood of Picts,"⁵ says Claudian,—whatever weight we may be disposed to attach to such testimony from classic authors. Coming down to the middle ages, were we, like Mr Fergusson, in his 'Rude Stone Monuments,' to follow Geoffrey of

¹ See the account in the 'Orkneyinga Saga,' and in the Saga of Olaf Trygvissón.

² "A dögum Harallds hins hárfagra bygduz Orknæyar, enn ádr var þar Vikingaböli."—Orkneyinga Saga.

³ "Insulas quas Orcades vocant invenit domuitque; dispecta est et Thule."—Tacitus, *Life of Agricola*.

⁴ "Quasdam insulas etiam ultra Britanniam in Oceano positas Romano imperio addidit quæ appellantur Orcades."—Eutropius, *Lib. vii*.

⁵ "Maduerunt Saxone fuso Orcades, incaluit Pictorum sanguine Thule."—Claud.

Monmouth (1147) as a trustworthy guide, we should accept the islands, on his authority, as not only inhabited,¹ but as also Christianised (as undoubtedly they were), and as contributing at the early time of which we are speaking, the very flower of Christian chivalry—Sir Gawayn, Sir Gareth, Sir Gaherys, and Sir Agravayne, sons of Lot, King of Orkney—to the brotherhood of the Round Table at Arthur's Court at Caerleon !²

But though all history were silent, and all romancing discarded, the pagan Picts of the Northern Isles have yet left enduring monuments behind them, whose evidence cannot be gainsaid—the brochs, monoliths, cairns, and megalithic circles, which, as Malcolm Laing observes, were grey with the moss of ages before the first Norwegian prow touched the shores of Orkney; and the Ogham-inscribed monuments discovered within the last few years establish the facts both of the existence and the Christianisation of those early tribes beyond a doubt.

A lingering belief has indeed come down the ages that the religion of the Cross flourished among the Picts until it was overwhelmed by the torrent of Gothic paganism, which deluged the islands with the arrival of the Norsemen in the ninth century. It is stated by the Iceland chroniclers that books, bells, and crosiers, left by Irish missionaries, were found there and in Farøe by the first settlers; and the names of Papa and Papyli, still preserved in Iceland, Orkney, and Shetland, have been regarded (with good reason, as is now apparent) as referring to the retreats of those early Culdee saints.³ Express reference to their contemporary existence with the Picts is made in a native document, the Diploma of the Genealogy of the Orkney Earls, prepared at Kirkwall, about the year 1453, for King Eric (the Pomeranian), by Thomas, the then "Bishop, by the grace of God and of the Apostolic see, of Orkney and Zetland." According to this document—

¹ *Historia Britonum*, chap. ix., &c.

² See *La Morte d'Arthur*, *passim*.

³ It may be presumed that in Shetland, before the devastation by the Northmen, the Culdees (*Céli-De*) were established at Papal in Unst, Papal in Yell, Papil in Burra; and at Papa Stour (Big), Papa Little, and Papa in the Bay of Scalloway. (See 'Orkneyinga Saga,' p. xx; and also paper by Captain Thomas, R.N., in the *Proceedings*, vol. xi. part ii.)

"In the time of Harold the Hairy (*Comatus*), King of Norway, who was in possession of the entire kingdom, this land or country of the Isles of Orkney was inhabited and cultivated by two nations—namely, the Peti and the Pape ('inhabitata et culta duabus nationibus scilicet Peti et Pape')—which two nations were utterly uprooted and destroyed by the followers of the doughty Prince Rognald, who so pressed upon those nations of the Peti and Pape that none of their posterity remained. But true it is that the land was not then called Orkney, but the land of the Pets, as is clearly verified by a chronicle extant at this day, by the sea dividing Scotland and Orkney, which sea to this day is called the Petland Sea ('quod usque ad hodiernum diem mare Petlandicum apellatur'), as distinctly follows in these chronicles. King Harold the Hairy first landed in Shetland with his fleet, and thereafter in Orkney, and conferred the said Orkney and Shetland upon the before-named Prince Rognald the Stout, by whose followers the foresaid two nations were overthrown and destroyed, as our chronicles clearly show."

The *Pets* referred to in the foregoing are obviously the Picts. If there should be any doubt as to who the *Pape* were, it is set at rest by the Icelandic chroniclers. The *Landnámabók*, the colonisation register of Iceland, states that—

"Before Iceland was colonised from Norway, men were living there whom the Northmen called Papas; they were Christians, and it is thought they came over the sea from the west, for Irish books which were left behind by them, and bells, and croziers, and other things were found after them, which seemed to indicate that they were West-men. Those things were found in Papeya, towards the east, and in Papyli."

Ari the Wise repeats the same story, and adds, "It was clear that they were Irishmen."

This is affirmed further in an ancient document, the "Chronicon Norvegiæ" (evidently the "Chronicle" referred to in the Diploma), which contains a remarkable account of both the Papas and the Picts.¹

¹ The "Chronicon Norvegiæ" (of which the only known transcript, bearing to have been the property, in 1554, of Robert Reid, Bishop of Orkney and Zetland, is preserved at Panmure House, in a hand apparently of the fifteenth century) is

Apart, however, from a vague reference to Shetland by the Irish monk Dicuil (A.D. 825), we have only one recorded visit by these Christian missionaries, related by Adamnan, the biographer of St Columba. About the year 580, Cormac, one of the followers of the saint, proceeds to the islands, protected by the influence of Columba with Bruidhe Mac Meilkon, King of the Northern Picts, at whose court at the castle on the Ness a native chief or king (*regulus*) was present at the time of Columba's visit.¹ Unfortunately the account given of St Cormac's mission is very meagre. What he saw, what he did, and the results, are left unrecorded.

But the Ogham monuments which have been found lately in the islands, coupled with the local traditions, the historical indications referred to, and the early dedications still remaining to saints more Celtic than Scandinavian, while all other Celtic traces have been swept away, leave no doubt as to a Christianity existing in pre-Scandinavian times.

Oghams are, as we know, an occult form of monumental writing practised by the Celtic ecclesiastics of the early middle ages. We have seen that the Irish missionaries were no strangers to the Northern Isles in those early ages; and the conclusion is irresistible, both on philological and historic grounds, that these Orkney and Shetland stones are Celtic—that is to say, the work either of the Irish missionary monks (the *Pape* before referred to), or of native Picts instructed by them. Such being the case, these monuments are necessarily Christian, as is attested further, in the cases where

almost unknown in this country, but was printed by Professor Munch of Christiania, in his 'Symbolæ ad Historiam Antiquiorum Rerum Norvegicorum,' 1850. The following passage occurs in it, p. 6 :—

"De Orcadibus Insulis.

Istas insulas primitus Peti et Pape inhabitabant. Horum alteri scilicet Peti parvo superantes pigmeos statura in structuris urbium vespere et mane mira operantes meredie vero cunctis viribus prorsus destituti in subterraneis domunculis prætimore latuerunt. Sed eo tempore non Orchades ymmo terra Petorum dicebantur, unde adhuc Petlandicum Mare ab incolis appellatur quod sejungit insulas a Scocia. . . . Qui populus unde illuc adventasset penitus ignoramus. Pape vero propter albas vestas quibus ut clerici induebantur vocati sunt, unde in theutonica lingua omnes clerici Pape dicuntur. Adhuc quedam insula Papey ab illis denominatur."

¹ Adamnan, Vita Sancti Columbæ, Lib. II. cap. xliii.

sculpturings occur, by their style of art, and the symbols which they bear. If, therefore, Celtic and Christian, we cannot suppose them to be earlier than the visit of the Celtic missionary Cormac, the contemporary of St Columba, about the year 580 A.D. ; nor, unless a Christian remnant can have survived amid the exterminating paganism of the Norsemen, can they be assigned to a later date than the invasion of the latter in the year 872. Their age is thus, presumably, from one thousand to thirteen hundred years.

These Ogham monuments speak to us, therefore, with no uncertain sound, across a wide chasm of time. They are monuments of Celtic Shetland in that early period between the termination of the Roman occupation of Britain and the ascendancy of the Norsemen in Northern Europe,—when Anglo-Saxons ruled in England, and Picts and Scots possessed divided sovereignties in Scotland, ere fused into one united nation by the powerful arm of Kenneth Macalpin. These stones also remind us forcibly of that long night of ignorance in which Europe lay, when Iona pierced the gloom by a light which, radiating from it, illumined far and near ; when, as so eloquently told by the Count de Montalembert, the Monks of the West penetrated into the remotest regions of the barbarous north, preaching a higher life and a nobler faith.

In all the circumstances, there can be little doubt that this St Ninian's Isle in Shetland was a seat of those Christian heroes a thousand years ago, an isle of saints, a second Iona or Lindisfarn, a centre of light for the adjacent mainland and isles. But all is now gone, without a vestige except this Ogham monument, and the imperishable name of St Ninian, to tell us of their lives, their labours, and their deaths.

Note.—At the meeting of the Antiquaries when this paper was submitted, it was declared by the late Rev. Dr Thomas M'Lauchlan, then one of the Vice-Presidents, that the discovery of these Ogham stones and the exposition of their historical significance had "restored the Celtic Church to the northern isles." It is true that one or two earlier writers had dimly perceived indications of the existence of Christian culture in the islands in the age preceding the Norwegian occupation in the ninth century ; but Dr M'Lauchlan

himself the historian of the Celtic Church in Scotland, in his book 'The Early Scottish Church: The Ecclesiastical History of Scotland from the First to the Twelfth Century' (1865), had, in the absence of reliable data, to treat Orkney and Shetland as entirely *blank* in respect of evidences of Christianity in the Celtic age.

The Bressay stone, discovered at an earlier date, though elaborately decorated with Celtic ornamentation, and bearing an inscription in Ogham characters, had, in consequence of a very questionable interpretation of these characters, been referred rather to the Scandinavian era. But it, the two stones now described, and the sculptured stone from Burra Isle, dealt with in the next paper, are in my opinion unimpeachable evidences of the early Celtic Church in the islands.

The Burra Stone.¹

This unique monument, now safely deposited in the Museum of the Society, came under my eye in the course of investigations which I made in the Burra Isles on the occasion of a visit to Shetland in the month of July 1877. Richly sculptured as it is with a wheel-cross of elegant design, with interlaced ornamentation of Celtic pattern, and a variety of figure subjects carefully executed, it may be ranked among the foremost in interest of the sculptured stones of Scotland. As it lay, with the decorated side uppermost, at a short distance to the south of the church in the ancient churchyard at Papil, it might have been noticed at any time by any one who chose to look for it, or who, chancing to observe it, had recognised its significance as a relic of Christian art from a period of remote antiquity. But from age to age it appears to have escaped notice. The parish clergymen who wrote the Old and the New Statistical Accounts of the district in the years 1799 and 1841 respectively, seem to have been unaware of its existence or of any other sculptured remains; nor is it noticed by any authors, natives or strangers, who have published accounts of the country from time to time, though the site is of more than ordinary interest ecclesiologically, from the fact of its having been occupied formerly by one of the towered churches of the north, of which that on the island of Egilsey

¹ Submitted to the Society of Antiquaries on 11th April 1881.

in Orkney is the only preserved specimen, as will afterwards be shown.

The stone is a slab of finely grained sandstone 6 feet 10 inches in length. The breadth of the upper portion, measured across the enclosing circle of the cross, is 1 foot 7 $\frac{1}{2}$ inches. Towards the lower extremity the breadth is slightly contracted, the minimum breadth being 1 foot 5 $\frac{1}{2}$ inches.

The thickness varies from 1 $\frac{1}{2}$ to 2 $\frac{1}{2}$ inches. The sculpturings are on one side only.

The sculpturings are formed by incised lines, with the exception of the four figures of ecclesiastics, in which case the whole of the background is recessed as well. In general terms, the sculpture consists of a cross at the top, having a short shaft which is flanked on either side by two ecclesiastical figures. Below this, and forming the base upon which the shaft rises, is a rectangular panel containing a grotesque animal; and at the bottom two figures, half man half bird in shape. The whole is boldly but carefully executed, and the drawing is characterised by no small degree of artistic precision.



Sculptured slab from the churchyard of Papil, island of Burra.

The cross is enclosed within two circular incised lines, and is of the type known as Maltese. It is formed by intersecting arcs of circles, thus leaving four divisional spaces, *vesica* shaped, which are filled in with interlaced work, as are also the triangular spaces on either side below. The interlacements in the *vesica*-shaped spaces consist of circular rings and figures of 8 intertwined, and in each of the triangular spaces is the well-known *triquetra* knot. The arms and shaft of the cross are left plain, with the exception of an incised pattern on the base of the shaft, consisting of four inner loops encircled by two outer ones.

The four figures of ecclesiastics are arranged two on each side facing inwards towards the shaft. Each holds a crosier, of the *bacula* or staff shape, and two of them have what appears to be an oblong satchel slung over the shoulder. They are habited in cloaks, which reach to near the ankles, and have pointed hoods drawn over the heads.

The grotesque animal below is apparently purely conventional, but with a certain resemblance to a lion. The tongue protrudes and is curled round at the tip. The outline of the body is formed by a double incised line which curves round into spirals above each pair of the fore and hind legs. The tail is twisted forwards over the back, and is drawn with a single incised line, as are also the jaws and feet of the animal. The joints of the knees are emphasised by cross strokes which terminate the double lines round the body, the outer line only being continued from the knee downwards. The five claws of the feet are plainly indicated. The whole is enclosed within a rectangular panel (formed by a double incised line) from the top of which springs the shaft of the cross.

The two semi-human figures at the base hold axes in one hand which rest on the shoulder, the other arm being upraised in each case. The chin, eye, and general form of the head is human, but in place of the human nose and mouth they are provided with elongated beaks. These beaks appear to meet together through the two eyes of a human head placed between them. The figures are clad in short tunics reaching about half-way to the knee. The legs are apparently those of birds, three claws on each foot being perfectly distinct. Part of the stone is scaled away between the

two figures, so that doubts may be raised as to whether the mask, into whose eyes the beaks are inserted, may not have been prolonged into a body. The two figures are not enclosed within any marginal lines, and below them is a blank space where the slab was probably inserted into a stone base, or into the ground. The surface of the back of the slab is irregular, and there is no evidence of its ever having been enriched with sculpturing.

I have confined myself in the foregoing to a simple description of the sculpturings, and I prefer not to enter upon the consideration of the symbolic character which certain of the figures may bear. That these had a meaning perfectly recognisable at the time need not be doubted, but, in the present state of our knowledge, any attempt to define this meaning here would be mere speculation.

There are only two stones known, in Scotland, on which the particular form of cross which we find on this stone occurs. These are, the stone on the roadside near Whithorn in Galloway, perhaps the earliest Christian site in Scotland, and the elaborately sculptured stone from the island of Bressay in Shetland.

The points of resemblance to this latter are very marked. They are as follows : (1) The interacements filling in the *vesica*-shaped spaces are almost identical in each case ; so are also (2) the ecclesiastical figures on both stones, in their dress, hoods, crosiers, and satchels. On the Bressay stone, as in that of Burra, there is (3) a conventional animal below the ecclesiastics with its tail curled over its back. There is also a general resemblance in the whole design, and in the arrangement of the figures. But the Bressay stone bears in addition a lengthened inscription in Oghamic characters, a cryptic form of monumental writing found only in early Celtic districts ; and the strictly Celtic period in Shetland terminated in the ninth century.

The localities in which these two stones were found are within a short distance of each other, the islands of Bressay and Burra being situated on the east and west sides respectively of the Shetland mainland, which is here attenuated to a breadth of not more than two miles, and both islands forming, with this intermediate portion of the mainland, a single ecclesiastical parish at the present day—Bressay, Burra, and Quarff.

It would therefore seem not improbable that both stones were erected by the same people, and near the same period.

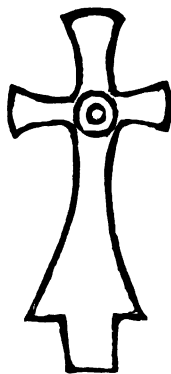
The other stone referred to, that at Whithorn, is known to be of great age, both on account of its inscription and of the monogram adopted by Constantine which appears on the paintings in the catacombs of Rome. The Welsh stones on which this form of cross appears are also of great age.¹ In the splendid Irish manuscript, the "Gospels of Durrow," preserved in the Library of Trinity College, Dublin, there is a lion figure closely resembling the conventional animal on the Burra stone. It is the initial page of the book of St Mark. The spiral lines on the animal on the Burra stone are also of the same character as those on the Burghead bull-stones, and on the incised symbol stones of the Pictish district of the east of Scotland, which are generally considered among the earliest of our Christian monuments. There are one or two other points of resemblance to the sculpturings on Forfarshire stones which are striking. The fragment found during the restoration of St Vigean's Church bears a figure, with a pointed hood, precisely of the same character as the ecclesiastical figures on the Burra stone. Behind this figure is sculptured a crosier, also of the bacul or staff shape as on the Burra stone, side by side with the well-known double-disc symbol which is of early date and as yet of unknown meaning.

But whatever difficulty there may be in determining the age of the sculptured symbol-stones of the east of Scotland, there is, in the history of the Northern Isles, a pretty clearly defined limit as to the period within which sculptured or inscribed stones of the purely Celtic type could have been produced. The conquest of the islands by the Scandinavians in the latter part of the ninth century overthrew, if it did not actually obliterate, the early Celtic Church in those islands. If, therefore, the date of this Burra monument is to be referred to a later period, it must be in consequence of a survival of the Celtic Church in remote districts, notwithstanding the displacement of the Pictish race and their religion by the pagan Norsemen; or it must belong to the period when Christianity was

¹ These Welsh stones are at Dugoed (Westwood, *Lapidarium Walliæ*, plate 59), at Capel Colman (*idem*, pl. 58), at Neverne (*idem*, pl. 61), and Llanfaglan (*idem*, pl. 81).

revived in the islands in the beginning of the eleventh century ; but, in the latter case, the Celtic character of the ornamentation would require explanation, as a purely Scandinavian race and a new form of Christianity had then been established in the islands.

So far as I could ascertain there was no trace of any other sculptured stone in the churchyard at Papil, except one slab lying close by the monument already described. It is a slab of the same kind of stone, 5 feet $4\frac{1}{2}$ inches long by 1 foot $3\frac{1}{2}$ inches at its greatest breadth, bearing an incised cross of simple but graceful form, the character of which will be best understood from the accompanying figure. It is apparently of the same date as the other.



Incised cross on a slab at Papil.

In treating of an interesting relic like the Burra stone it may not be inappropriate, by way of further explanation, to refer briefly to the locality in which it was found.

The two isles of Burra (so called from a Pictish *burgh* or *broch*, once a conspicuous feature on the west isle) lie side by side on the western side of the Shetland mainland, south from the Bay of Scalloway. They are described by the late Dr Cowie as follows :—

“Southward from Trondra are the Burra Isles. Of these West Burra is the largest, being upwards of four miles long, but very narrow in proportion. East Burra, or House, is shorter, but of greater breadth in proportion to its length. A long stretch of water separates West Burra, on the one hand, from Trondra and House on the other. This narrow strait more resembles a river than a portion of the sea. It takes a meandering course, sometimes becoming narrow and constricted, and again expanding into wider pools, so that as his skiff bears the traveller down through the Sound of Burra, some fresh object of interest meets his eye on passing each projecting point. In one place the two islands of Burra approach so near to each other that they are connected by a wooden bridge, beneath which six-oared boats can pass. Owing to the presence of limestone the soil of Burra is very fertile, crops ripening here somewhat sooner than in the mainland. . . . The

old church of Burra was adorned by a spire, but it has long since been removed.”¹

The modern writer ignores, or more probably was wholly unconscious of, the ancient ecclesiastical importance of these isles. Of this, however, we have unmistakable evidence, and a very striking relic in the sculptured stone which has been described.

The isle, now known as West Burra (in the churchyard of which, situated at the hamlet of Papil, the stone was found), was anciently termed, by way of pre-eminence, the *Kirk Isle*. The Rev. John Brand, writing in the year 1701, says that “the church here is very large, and hath a high steeple in it.” This is remarked most probably from Brand’s own observation, or from information gathered by him, as nothing to the same effect is known to have been printed up to that time. Sir Robert Sibbald, in his ‘Description of the Isles of Orkney and Zetland,’ published in 1711, is more explicit. He says: ‘Here (in the Kirk Isle) is a church, within a mile of the southmost end of the island, standing near to the sound side of *Burray* called *St Lawrence* Church (built as it is reported, by the mid-most of the three *Norwegian* Sisters, the eldest having built the church of *Tingwall*, and the youngest sister the church of *Ireland*), the steeple whereof will be five or six stories high, though a little church, yet very fashionable, and its *Sanctum Sanctorum* (or Quire) yet remains.” Sir Robert goes on to state further that there is another chapel at *Brough*, near a mile and a half from the northmost end of this same island, but “how it is named, or by whom it was built it is not known; now it is become altogether ruinous.”

This has all the appearance of being a narrative from Sibbald’s personal knowledge; but on recently examining the Sibbald MSS. in the Advocates’ Library, I found that the passage is quoted verbatim, without acknowledgment, from a manuscript bearing to be “A Geographical Description of the Island of Burray, 1654,” and stated, in a later handwriting, to be “by Mr Hugh Leigh.”² Sir Robert Sibbald’s work must be regarded in the light merely of

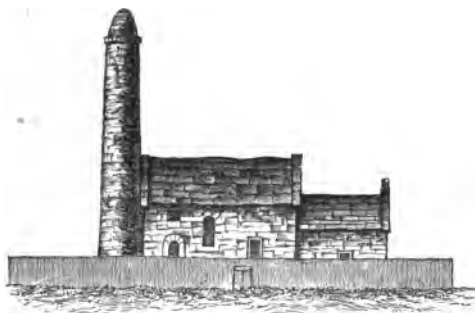
¹ Shetland and its Inhabitants. By Robert Cowie, M.A., M.D.

² The Rev. Hugh Leigh, A.M., was presented to the parish of Bressay, Burra, and Quarff in 1672. He was suspended in 1702 for beating his wife, but reponed in 1704, and died in January 1714 (see ‘Fasti Ecclesiæ Scoticanæ,’ part v. p. 423).

a compilation derived from various sources previously unpublished ; and his description of the church of Burra, while it cannot probably be accepted as an accurate account as at the date of his publication, is yet an indisputable testimony to the state of matters fifty or sixty years earlier—that is, in the middle of the seventeenth century. The traditional myth as to the Norwegian sisters, reported to have been such munificent church-builders, need not be noticed.

It will be observed that, according to Sibbald, or rather to the Rev. Hugh Leigh, the church was dedicated to St Lawrence. This is confirmed by a legal document, more than a century earlier, now in my hands, but belonging to the county of Shetland. It is a charter of sale, dated 21st March 1547, by Ingabrocht Katrin's dochter of Houll, to Gilbert Kant of Brocht, of her two merk land in Houll. It bears to have been sealed "in sanct Lorence Kyrk of Burray."¹ This dedication to St Lawrence, the "Apostle of the Picts," is quite an appropriate one. Born, according to the Roman martyrology, in 619, he is reported to have laboured among the Angles in England and the Scoti in Ireland, and to have journeyed into Pictland, where he was visited by St Ternan ; the chief field of his labours being the Mearns, where he is commemorated at Laurencekirk. We have already seen what a marked resemblance some of the figures on the Burra stone bear to the ancient sculpturings at St Vigean in the Angus district.

From what has been observed, the presumption clearly is that the church at Papil in West Burra, with its "high steeple," was one of that remarkable class of which one specimen is still,



Egilsey, Orkney.

¹ One of the witnesses is Sir Jhone Muray, curat of Bressay. The female name Ingabrocht is the *Ingibiorg* of the Sagas, still to be found occasionally in the islands as *Inga*.

fortunately, preserved in the north—that in the island of Egilsey in Orkney, whose tower was originally probably at least 60 feet high, and still stands to a height of 48 feet.

The architectural features of this structure would lead to the inference of its having been erected probably as early as the eleventh century, if not earlier; and would point to its being of a kindred character to the round towers of Ireland and to the towers still in existence at Abernethy and Brechin in Scotland, which are also of an early and unrecorded date.

The towered churches of Shetland, which, as already mentioned, appear to have been three in number—at Burra, at Tingwall, and at Ireland in Dunrossness—may in all likelihood be referred to the same period. But whether this be so or not, there is little doubt that the site of the church at Papil, where the stone was found, was a sacred one from a still earlier period—from the earliest times of the Celtic Church. The name Papil is strongly suggestive of this. The early chroniclers of Iceland and of Orkney and Shetland, as has already been shown, allude to the *Pape* (from whom the names Papa and Papil, common in the north, are obviously derived), as the pioneers of the Christian faith in those regions in times so remote as apparently to have been coeval with the Celtic paganism which it eventually superseded.

Probably, therefore, as early as the seventh, eighth, or ninth century, Papil in Burra was a seat of these missionary clerics labouring among the Pictish islanders, and following the rules and order of the Culdee community in Iona, to whom in all likelihood they owed their origin. This early establishment would doubtless be overthrown, if not extinguished, by the torrent of Scandinavian paganism which swept over the islands towards the end of the ninth century. It must have been revived after the reintroduction of Christianity among the Norsemen at the beginning of the eleventh century; and the handsome towered church would be reared at some early date thereafter, in place of the more humble edifice which had answered the requirements of a more primitive age and people, if indeed it was not itself a survival from that more early period. It is to be deplored that every trace of this structure has long since disappeared, as have the other towered churches in Shet-

land. For many years the place lay waste, except as the burying-ground of the district; but recently the Church of Scotland has erected a neat chapel as near as may be to the site of the ancient edifice, and, so far, of the remains of the material of which it consisted. The only undoubted relic of the early ages is the sculptured monument which is the subject of this paper, and the other slab, charged with an incised cross, which still remains on the spot.

With perhaps the single exception of the spot in question, Papil, the nomenclature of the Celtic period in the Burra isles has entirely disappeared, the place-names at the present day, where not modern, being altogether Scandinavian.

Ogham-inscribed Fragments from Cunningburgh.

A fifth specimen from Shetland was laid before the Society on 9th April 1883. It was found close by the burying-ground surrounding the ancient and long-disused church of Cunningburgh, and the finder is the Rev. George Clark, Free Church minister there, who has been so successful in unearthing other remains of a former civilisation on the spot. Another and smaller fragment, found at the same place and about the same time, is still in his possession.

Unfortunately, all that is left of the stone is a mere fragment—one end of a slab of grey sandstone, the original size and form of which cannot now be determined. The general effect of the fracture is to leave an irregularly triangular piece measuring 13 inches in length by $7\frac{1}{2}$ inches in breadth at extreme points, and about $2\frac{1}{2}$ inches in thickness. The inscription is clearly cut, and for most part well preserved, a few only of the letters being doubtful. It consists of two inscribed lines, the *fleasg* or stem-line of the one being incised on the broad surface, while the natural angle is used as an imaginary stem-line for the other, as is almost invariably the case in the Irish examples. The digits or scores forming the letters are of the ordinary kind, vertical or oblique to the stem-line, as in the alphabetic scales in the 'Book of Ballymote.' Another example from Shetland, the Lunnasting stone, shows a conglomeration of consonants, with an almost entire absence of vowel characters; but

in the present case the vowels are clearly formed scores, somewhat shorter than the consonants, crossing the stem-line vertically as in other Scottish examples, and not dots or notches, as is the prevailing form of the vowel characters in Ireland. In the only known specimen from the Orkney Islands (the Burrian stone), in the stone from Lunnasting in Shetland, before referred to, and in the smaller fragment from Cunningsburgh, already in the Museum, the scores forming each separate letter are "tied," or bound together, at the extremities, seeming, in that respect and otherwise, to indicate a local style. The present fragment is destitute of that peculiarity; hence it might be regarded as possibly earlier than those examples.

The obstacles to the satisfactory rendering of an inscription in Oghamic characters are well recognised. They arise from the uncertainty as to the language or archaic form of dialect in which it is expressed, and from arbitrary variations in the characters employed, and in the powers attributed to them. Some time after the stone came into my possession I sent a rubbing and a careful transcript of the lettering to Professor Rhys of Oxford, and he favoured me with a letter containing a careful analysis of the characters composing the inscription, and a tentative reading in which the proper name CONMOR appeared. Lord Southesk, in his 'Origins of Pictish Symbolism' (1893), supplies a different reading and interpretation. The fact is that both lines are imperfect, merely terminal; and, in the circumstances, I fear we must, for the present, leave the inscription on this Cunningsburgh fragment as a riddle.

In the spring of 1903 another Ogham-inscribed fragment, the sixth example from Shetland, was sent to me by Mr James M. Goudie, Lerwick, and is now in the Museum. It is a portion of a slab of micaceous sandstone, 20 inches in length by 10 inches in breadth, and $2\frac{1}{4}$ inches in thickness, and having on one face portions of three lines of Ogham characters. The stone was come upon when a grave was being dug on the site of the pre-Reformation church of Cunningsburgh, a spot which has already yielded the fragment last described and other interesting examples both of Runes and Oghams. Its preservation is due to the care of Mr Laurence Malcolmson, Flanderstown. The inscription has been

examined by Dr John Rhys, but his translation and reading are as yet only tentative.

The only other known relics of Christian art in Shetland of the Celtic period are (1) a fragment 6 inches long by 3 inches wide, with sculptured spirals and trellis-work pattern in incised lines, formerly in the local museum at Lerwick, and now in the National Museum, Edinburgh; (2) similar fragment from the island of Uyea, also now in the Museum; and (3) the slab formerly at Sandness but now lost, containing the rectangular symbol figure, the horse-shoe figure, and the mirror ornament.

II. EARLY RELIGIOUS FOUNDATIONS AND DEDICATIONS.

Sacred sites of early date are to be found in all districts, and cannot be enumerated here. Remains of a few of the chapels or small district oratories which occupied these sites are still to be found, and particulars regarding these have been recorded by Muir in his 'Ecclesiological Sketches' and by Sir Henry Dryden in his 'Ruined Churches in Shetland' (privately printed); but in most cases all traces have disappeared. The halo of traditional sanctity still, however, lingers around, though the native residents have no information on the subject beyond vague and, at times, fantastic traditions.

I have endeavoured from a variety of sources to recover as many reliable instances as possible of these early dedications, and these will be found in the subsequent paper on the "Parochial Benefices of Shetland in the Seventeenth Century." Some of the later dedications may no doubt be referred with greater probability to Scandinavian influences than to the earlier Celtic.

III.

THE SCANDINAVIAN ERA.

I. RUNE-INScribed STONES.¹

THE history of the Shetland Islands (in common with that of the Orkneys) divides itself naturally into three distinct periods—viz., (I.) The Pictish period, ending about A.D. 870; (II.) the Norse period, from A.D. 870 to A.D. 1468; and (III.) the Scoto-Norse period, from A.D. 1468.

It is obvious, from the results of archæological investigation, that the native inhabitants of Orkney and Shetland had attained to no mean position in the scale of ancient civilisation. In particular, the brochs or towers of strength, erected by them with a prodigious expenditure of by no means unskilful labour, evince a concentration of energy for purposes of defence which must excite wonder and admiration even at the present day. The study, too, of ecclesiastical relics, such as sculptured and Ogham-inscribed monumental stones, which have been brought to light in recent years, furnishes evidence of their culture having been toned, if not altogether altered, in its character by the influence of Christianity, introduced by the followers of St Columba.

In the year 872 A.D., Harald Haarfagr accomplished the unification of Norway at the decisive battle of Hafursfiord, and a few years later the irruption of the Norsemen under his leadership overthrew, with fire and sword, the fugitive Vikings who defied his authority in

¹ This paper, under the title of "Rune-inscribed Relics of the Norsemen in Shetland," was submitted to the Society of Antiquaries on 10th February 1879.

the Western Isles. The result of this conquest was the subjugation and absorption of the Picts, and not their extinction. The Christian religion had previously gained a footing among them; and there is ground for believing that it was not altogether destroyed, but that it lingered in the memories of the people, through their Pictish affinities, until, by a rude retribution, it again reared its head over the ruins of vanquished Odinism.

Apart, however, from the probabilities of the case, there is evidence—scant, it is true, but still significant—of the survival of a Pictish remnant. Among others, it may be mentioned that on the spot where the Rune-inscribed Norse memorial stones—to be afterwards described—were found, several unmistakable relics of the Pictish age have been brought to light, including fragments of sculptured and Ogham-inscribed stones, undoubtedly Celtic and Christian. The inference from these is—a continuity of occupation, a continuity of resort for the purpose of interment, and the continuity of a recognised religious site from Pictish times, on through the invasion and permanent settlement of the Norsemen, to our own day. It is scarcely possible to conceive such a survival of sacred sites and traditions among people of another race, language, and religion, coincident with the total extinction of the preceding race to which those sites and traditions belonged.¹ Several instances are expressly mentioned in the Sagas of intermarriages between the Norsemen and native Celtic families in the North of Scotland and elsewhere, and there is every reason to believe that the same took place in Shetland and Orkney.

It is almost exclusively to the evidence furnished by the remains of the early ages that we are indebted for the limited knowledge we possess of the Pictish times to which I have referred. But the age of the Norsemen in the islands, embracing a period of about six hundred years, from A.D. 872 to 1468, is not without a literature independent, in a manner, of archæology. The story of

¹ The late Professor Munch seems to have thought that the Picts were "wholly absorbed" by the Norse settlers in Orkney and perhaps in Shetland ('Chronicle of Man,' p. xviii). Sir George W. Dasent gives it as his opinion that "the original inhabitants were not expelled, but held in bondage as thralls" ('Burnt Njal,' p. clxxxiv, vol. i.)

the Conquest, the lives of the island Jarls, the bloody raids of the Vikings, and the home-life of the Odalmen, were transmitted orally in songs and narrative for ages, until, in the hands of the later sagamen, these assumed the literary form of the Saga (history or story), as we now have them. The 'Orkneyinga Saga,' or History of the Earls of Orkney and Shetland, and the 'Saga of Earl Magnus the Saint,' compiled at an early date in the Old-Northern tongue, contain a vivid portrayal of life and manners in those rude ages. It is to be remembered that in these island regions the language and civilisation of the Latins never penetrated except in the service and formularies of the Church; and this is the boast of the whole Gothic North — that its literature and civilisation are of purely native growth, independent of the classical influences which elsewhere were paramount in Europe. Consequently, Saga literature is characterised by a ruggedness and a simplicity in entire harmony with the prevailing aspect of nature around, but most unlike to the polish and complexity of the classic.

While these Sagas are valuable historically, their importance is shown to be greatly enhanced, and their pictures of life illustrated by the material remains of those ages which have from time to time been disinterred. Few as these are, compared with the multitude of such remains which have been found in Scandinavia, they aid us most materially in understanding the Sagas, and the most typical aspect of ancient northern life with which the Sagas abound — roving expeditions and the use of the sword.

That vigorous native life in the North has left other traces in the islands in the shape of *inscribed relics*, all too scanty as yet known, but likely to be multiplied as circumstances may bring them to light hereafter. It is not many years since the opening of the chambered mound of Maeshowe in Orkney revealed the first-known Runic inscriptions in the islands, and perhaps the largest single collection of the kind in the world; the work, it is to be observed, not of the constructors of the mound itself, but apparently, for the most part, of the Jerusalem-farers (*Jorsalafarar*) who accompanied the Earl Rognvald to the Holy Places in the year 1152, and scratched their jottings upon its walls. It is now my duty to describe the other Rune-inscribed relics which have been brought to light in the

islands (all in Shetland), especially the stone last discovered, and now in the National Museum.

The importance of these recent discoveries may be inferred from the extreme scantiness in this country of this interesting class of relics. We have the Hunterston brooch, and there may perhaps be some other portable objects with Runic lettering preserved; but we have not a single specimen of a Rune-inscribed stone in the National Museum apart from these Shetland fragments. Indeed, with the exception of these and the Maeshowe inscriptions in Orkney, only *three* Rune carvings on stones have, so far as I am aware, been found in all Scotland up to this time.¹ These are—first, the Ruthwell Cross, in Dumfriesshire, inscribed in Anglo-Saxon Runes; second, the lettering in St Molaise Cave in Holy Island, Arran; and, third, the stone at Knockando in Morayshire. The scarcity of these relics seems surprising, in view of the extent and nature of the Scandinavian dominion in the Hebrides and on the mainland of Scotland, as well as in the northern isles. But in Ireland, in the same way, the once-powerful kingdom of the *Dubh-Gaill*, or *Ostmen* (black strangers, or East-men), as they were indifferently termed, appears to have left only one inscribed relic behind it. In the little Scandinavian state of the Isle of Man, the Runic remains are numerous;² but the Danish sovereignty in England, of which King Knut (Canute) the Great was the central representative figure, and which occupies so important a place in the history of Southern Britain, has only a few relics of this description now known to exist.

Since, then, so few Runic monuments remain in extensive districts where Scandinavian influence so long prevailed, it would not have been wonderful had the island principality of Orkney and Shetland,

¹ Several further discoveries of Runic inscriptions have since been made in Scotland.

² For a number of these inscriptions we appear to be indebted to one zealous stone-carver named Gaut (Gautr or Gauti) Bjarnarson. This is expressly stated on the stone at Kirk Michael as follows:—

GAUT	GIRTHI	THANA	AUK	ALA	IMAUN
Gaut	made	this	and	all	in Man.

Had it not been for his diligence the number might therefore have been much smaller.

intensely Scandinavian as it was, been also comparatively barren of such remains. The inquirer who studies the great work of Professor Stephens ('Old Northern Runic Monuments of Scandinavia and England') will observe how vastly rich Scandinavia, especially the kingdom of Sweden, is in monuments of this description, and Orkney and Shetland have recently been able to contribute most interesting additions to this great collection.

Maeshowe, in Orkney, was opened in 1861, with the results to which reference has been made; but Shetland continued to exhibit an absence of authenticated Runic remains. This assumed absence in the northern isles of inscribed relics was observed and commented on by Mr Burton in his notice of the "Unrecorded Ages," and Dr Hunt, in a communication to the Anthropological Society about the year 1864, remarks, "It is somewhat singular that out of the hundred islands composing the Shetland group, the island of Bressay should be the only one in which any form of inscribed stones should have been found."

This reference to Bressay, as an exception, points to the Ogham-inscribed sculptured stone presented to the Museum in 1864, the precursor of the various inscribed monuments which have since been brought to light; and as the subject of Runes has so very rarely had occasion to come before the Society, I propose treating these discoveries somewhat more in detail than I should otherwise have done.

(A) Stone at Cross-Kirk, Parish of Northmavine.

This stone is noticed and figured by Dr Hibbert,¹ following the MSS. of the Rev. Mr Low, who found it on the occasion of his visiting Shetland more than a century ago.² It is a sepulchral slab, inscribed along the border of the flat surface in characters which are undoubtedly Runic, and which must be accepted as genuine, because it is scarcely possible to suspect them of having been simulated by Mr Low, whose integrity has never been questioned. At the same time, the stone does not appear now to be known; or,

¹ Description of the Shetland Islands, 1822, p. 531.

² Low's "Tour," MSS. 1774, since published (1879).

if it is known, a century of exposure has so obliterated the characters as to make them unrecognisable. Letters forming the following words have been identified by Professor Munch :—

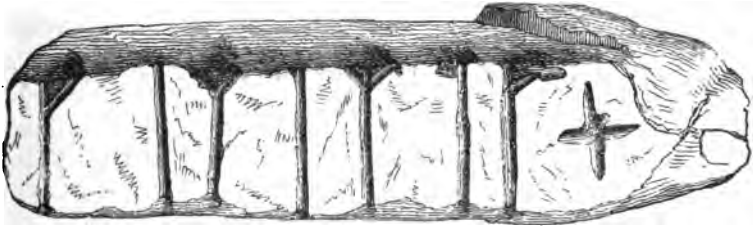
BITHI FIRIR SOL
Pray for the soul.

The remainder is unintelligible.

Another Runic stone, so called, is figured by Hibbert, and reproduced in the 'Sculptured Stones of Scotland.' It is described as fixed in the wall of the parish church of Sandness, and conceived to be of a date not later than the tenth or eleventh century. But it is in reality no Runic stone at all, but a carved slab, with mirror, comb(?), and crescent symbols, so well known on the sculptured stones of Eastern Pictland. This stone also, it appears, is not now known to exist. Dr Stuart observes that it was not found when looked for some time ago.

(B) Stone found in Cunningsburgh Parish in 1872.

The stone here figured was found by Mr Robert Cogle, a zealous native inquirer, at the depth of 3 feet beneath the bed of a stream.



A drawing of the stone forwarded to Professor Stephens, Copenhagen, enabled the professor to read it KVI MIK, which he regards as [HA]KVI MIK=[HE]WED ME, or carved me (the stone), it being evidently a fragment of a memorial tablet. The stone is now in the Museum.

(C) Stone found in Cunningsburgh Parish in 1875.

This is a still smaller fragment, brought to light by Mr Cogle in the same parish, at a very short distance from the former, and close to the old burying-ground, where the following and most important stone was found. Its remaining letters are * KT + TK * the last two characters of one word, and the two opening ones of another. It also is now in the Museum.

(D) Stone found in Cunningsburgh in 1877.

This is the third Runic inscription discovered in this neighbourhood within a period of about five years, these being, with the exception of the Northmavine stone before referred to, the only Runic stones ever known to have been found in Shetland. The same spot has also yielded Ogham-inscribed fragments, relics of the Celtic race which preceded the Norse rune-carvers.

The first intimation of the discovery of this stone reached me in the month of June 1877, in a letter from the Rev. George Clark, Free Church minister of Cunningsburgh. Tracings were sent to me, and in the following month I visited the spot and examined the stone, where it remained undisturbed. On applying to John Bruce, Esq. of Sumburgh, the principal heritor of the district, he at once most kindly consented to the stone being removed, and authorised its presentation to the Society, and it is now placed in the Museum as a donation from that gentleman, with the hearty concurrence of Mr Clark, the finder.

Various indications previously noticed had led to the conclusion that the spot in question, adjacent to the church and manse at Maill, was the site of an early settlement. The Rev. Frederick Souter, Mr Clark's predecessor, had some years previously pointed out to me, on a slight disturbance of the exposed face of the sand-bank facing the sea, fragments of charred bones, of molluscs, and other remains, which seemed to indicate refuse-heaps and human interments. Since then Mr Clark has made occasional diggings, resulting in the discovery of a large, deeply hollowed stone of the

kind regarded as grain-rubbers, represented in the Museum by the specimen from the island of Barra, of various forms of rough stone implements of the kind found at Safestër and Houlland, in the parish of Sandsting, and at Braefield, in the parish of Dunrossness; also a quantity of charred grain, and a small deep cup or vessel of steatite so thin and so carefully scooped out as rather to resemble a piece of pottery.

These results of his own diggings, together with the previous discoveries of inscribed fragments in the near neighbourhood, induced Mr Clark to make a careful examination of the adjoining burying-ground which surrounded the ancient church of Cunningsburgh, of which scarcely a trace now remains. His examination did not meet the disappointment so commonly experienced by ardent inquirers; the rune-carved monument now before us caught his eye. It was placed, with the inscription upside down, on the outside of the western enclosing wall of the churchyard. Covered as it then was literally with the "moss of ages," its detection required no ordinary keenness of eye, and is a remarkable instance for the encouragement of patient inquirers in all time to come. It is most fortunate that the inscription was on the exposed face of the stone; had it been otherwise, the discovery must have been impossible. How many more stones of the same kind may have disappeared in the same wall, which is built out of the church and of the lapidary remains of the churchyard, no one can now tell.

The stone is a piece of hewn sandstone, 4 feet 3 inches long, 6 inches broad at one end, narrowing to 5 inches at the other, with a uniform thickness of about 6 inches. Unfortunately, it has sustained a fracture at the end where the inscription begins. A portion of the lettering is gone, and several of the characters first in order are a good deal defaced. They are all distinctly but not deeply incised, forming a line of staves of slightly irregular breadth (averaging $5\frac{1}{2}$ inches) without longitudinal scores or other markings, except the divisional dots between certain of the words.

Runic characters, it has been well remarked, "are of the nature that does not yield an immediate harvest to the bold guesser, but must be extracted by toilsome inductive criticism. These inscriptions are a literature in stone devised by the northern nations before

they were Christian, . . . an original achievement of the genius of the people, unaided from that classical source whence the later alphabets of all the European nations were derived.”¹ It is in this light, as a purely native relic, of a kind not known beyond the limits of Scandinavia, and places directly under Scandinavian influence, that the present monument is to be viewed. It comes to us as a voice from the long-forgotten past, from the days of Scandinavian supremacy, not only in Shetland where it was found, but in almost all Northern Europe.



Having brought the stone to Edinburgh, I delayed submitting it to the Society until I should have an opportunity of consulting Professor Stephens of Copenhagen, the learned author of the ‘Old Northern Runic Monuments of Scandinavia and England.’ His reading is as follows :—

(* * * * RIS) þI 'IIT IFTIR + FATHUR: 'IF ÞNRÞIR(ŋ)
 (* * * * ris)THI STIN IFTIR FOTHUR SIN THURBAIR(n)
 (* * * * rais)ED this STONE AFTER FATHER SIN (his) THURBAIR(n)

and, in his opinion, the stone may be from the earliest Christian times.

Dr Hjalmar Kempff, of Gefle, in Sweden, formerly of the University of Upsala, an accomplished scholar, well versed in all that relates to the ancient monuments of his country, has taken an interest in this latest Runic discovery, from having examined the stone in the Museum when he visited Scotland in 1878. According to him the reading is—

* THI * * * * IFTIR + FATHUR SIN THURBIAU * *
 (or Thurbiaurn.)

¹ Burton's ‘History of Scotland,’ vol. i. p. 150 (2nd edition).

To my own mind the distinct portion of the inscription was clear from the beginning, but the word upon which the two doctors disagree, *STIN*, is so utterly defaced that I do not express an opinion upon it, though rather inclined to Professor Stephens's view. The other word, *THORBIORN*, seems also to present some difficulty, from the dubious character of some of the Rune staves composing the latter part of it.

With the concurrence of opinion indicated above, I think we need not now scruple to regard this precious relic as a tribute of filial respect to the memory of a deceased parent, named Thorbiorn. Who he may have been it is vain to conjecture. Several persons of the name are mentioned in the '*Orkneying Saga*,'—in particular, Thorbiorn, "a famous man," who was slain in Borgarfjord (Burra-firth), in Shetland, by the earls Magnus and Hakon, early in the twelfth century, and Thorbiorn Svarti¹ (swarthy). We cannot identify either of these Thorbiorns with the Thorbiorn of Cunningsburgh, though his monument is in all probability of about the same age (twelfth century), and they seem both to have been connected with the islands. The name was a common one, the original probably of our modern Thorburn. The name of the son who raised the stone has perished by the accidents of time, the portion containing it having been broken off, and he, like his father, has left no other trace behind him.

According to Professor Stephens, the date of the monument may be assigned to the earliest period of Norse Christianity in the islands—that is to say, not earlier than the year 1000, when the

¹ This Thorbiorn was one of Earl Rognvald's companions on the expedition from Orkney to the Holy Land in the year 1152, and died at Akursborg (Acre). He was a scald, and as the earl and his men, on their way to Jerusalem, landed there "with great pomp and splendour, such as seldom had been seen before," he composed this lay—

" Oft have I with comrades hardy,
 Been in battle, in the Orkneys,
 When the feeder of the people
 Led his forces to the combat.
 Now our trusty Earl we follow,
 As we carry up our bucklers,
 Gaily to the gates of Acre,
 On this joyful Friday morning."

A few days later his dirge was sung by Oddi the Little, a Shetlander, son of Glum.

people were compelled by King Olaf Trygvissou to accept the new faith. It bears no distinctive Christian formula, but its age and character are determined on other grounds.

To take the words of the inscription in order—

(* * * * *) The name of the person who raised the stone, broken away.

(ris) THI (?), *raised*. The third person singular, imperfect indicative. There are two verbs, *reisa*, to raise, and *rista*, to carve, used indifferently on these monuments, distinct words, though often confounded.

STIN (?) *stone*, accusative singular of *stenn*, or *steinn*.

IFTIR, *after*, preposition governing the accusative. This word is found with numerous variations on the Swedish, Danish, and Manx stones—*after*, *aft*, *aufst*, *eft*, *aftir*, *eftir*, *oftir*, *aiftir*, and *iftir* as in the present case.

FOTHUR, *father*, accusative singular of FATHIR. (Gothic, *fadar*; Anglo-Saxon, *fader*; Old High German, *fatar*, Modern, *vater*; Swedish and Danish, *fader*.) Found in rune-carvings with varying spellings.

SIN, *his*, possessive pronoun, accusative; singular, masculine (*sinn*, *sin*, *sitt*).

THURBAIR(N), proper name, *Thorbairn* or *Thorbjörn*, compounded of *Thur* or *Thorr*, the god, and *bjorn*, a bear.

Though these Shetland stones are only four in number, they are undoubtedly an interesting addition to the catalogue of relics of the Northern rune-carvers. Of the four, three have been found within a short distance of each other, in proximity to the site of the ancient church of Cunningsburgh. It may therefore not be inappropriate in this place to introduce some account of the church and parish,—so far as I may be able to glean a few particulars relating to the past from the very scanty records that remain,—with a notice of the marks of the Scandinavian fatherland, still observable in its place-names, and in the remains of the Norse language.

The Church of Cunningsburgh.

The origin of parishes in Shetland, as elsewhere, is involved in obscurity. It is always difficult to say in any particular case whether the church has been erected to meet the requirements of a district or parish previously formed, or whether the district has been allotted in the course of time, as a parish, to a church previously existing within its bounds. In the present case, as the circumstances connected with the erection of the Shetland parishes extend far back before the date when the islands were pledged to Scotland, the facts are probably beyond the reach of investigation. All we know is that the parish of Cunningsburgh existed as a parish at the Reformation, and that the church was the recognised church of the district from a very early time.

In the interments and manufactured relics which have been brought to light in the immediate neighbourhood of the church, there is evidence of an early native population existing on the spot. The church stood close by the sea-shore, at a distance of a few hundred yards east from the present Free Church and manse at Maill's Ayre. The fabric has disappeared, but the burying-ground is still used, and is enclosed by a good modern stone wall. Inland, the broch of Aithsetter remains a fortalice of the early occupants, while across the bay to the southward the broch on the island of Mousa, most celebrated of all the towers of the Picts, stands boldly exposed to view.

The Ogham-inscribed relics which have been found point to Celtic influences existing when probably the original church was reared. The Runic relics found among its ruins, or close by, attest its continuance as a sacred site during the period of the Norsemen; and as the ground surrounding it is still the burying-place of the district, the traditional sacredness of the site is maintained to the present day.

In 1567, seven years after the legal establishment of the Reformation, the entire district from Quarff to Sumburgh Head, upwards of twelve miles in length, with the Fair Isle, twenty-five miles distant,

was under the charge of a Reader only.¹ In the course of a few years even this makeshift came to an end.² The people ceased to have a local place of worship; the sacred edifice fell into decay, and became a victim to desecration. This desecration appears to have become a matter of notoriety, and at a court held at Dunrossness on 7th July 1603, by Mr John Dishington, depute for Earl Patrick Stewart, the following judgment was pronounced :—

“David Leslie to mak repentance for misusing the Kirk of Cunnisburgh.”

“It is tryit that David Leslie hes maist schamefullie misusit the Kirk of Cunnisbrughe, and placeit his guidis theirinto, making the samen ane kow byre, for the quhilk he is decernit to mak his repentance in presence of the Minister and haill Congregationne on Sondag nixt in sackclayth, and farder to pay xl s. to the King for his offence. And forder ordainis the haill commonis to upmak their kirk dykes lawful within the space of one moneth, ilk personn under the paine of xl li.”—Court-Book of Orkney and Shetland, General Register House.

The congregation referred to could not have been one meeting in the church, which had been thus degraded into a shelter for bestial, but must have been that of the church of Dunrossness, at that time

¹ “DUNROSNI, CANNISBRUGH, and SANDWIK and FAIR ISLE, being Johne Crab, reidar, xx li.;—died November 1571. In his rowme, Johne Kingsone, minister, xl merkis” [£2, 16s. 8d.]—Register of Ministers, 1567.

Kingson or Kingston continued in charge till 1575, when Malcolm Sinclair, Reader, was presented to the vicarage by King James VI.

In the ‘Buik of Assignationis of the Ministeris and Reidaris Stipendis,’ for the year 1576, the following entry occurs :—

“Dunrosnis, Sandwik, Cunisburgh. — Malcolm Sinclair his stipend the baill vicarage of Dunrosnes, quhairunto he is newlie providit, extending to 80 li., he payand the reidare at thir kirkis.

“Croce Kirk, Faire Isle.—Laurence Sinclair, reidare at thir Kirkis, his stipende, xx li. to be paid be the new providit Vicar.”

² The order of readers was authoritatively suppressed in 1581 :—

“Anent Readers : Forsuamickle as in Assemblies preceeding, the office thereof was concludit to be no ordinar office in the Kirk of God, and the admissiōne of them suspendit to the present Assemblie ; the Kirk, in ane voyce, hes votit and concludit farther, that in no tymes comeing any Reader be admittit to the office of Reader be any haveing power within the Kirk.”—Booke of the Universall Kirk of Scotland, p. 219.

Cross Kirk, on the sand at Quendale, more than a dozen of miles distant, which was *the* church of this extensive "ministry" as then reconstituted and as still existing.

The downward course of the building from this to absolute ruin cannot have been a matter of great length of time. A few years later it appears noted in Pont's Map,¹ published by Blaeu of Amsterdam, as "St Paul's Kirk"; and to this notice of it we are indebted for the only definite hint we have as to its dedication. But this early hint, I find, cannot be entirely depended upon. In a paper, under the hand of Mr Pitcairn, minister of the parish of Northmavine, without date, but apparently very near to the year 1600,² the vicarage of Dunrossness is said to comprise the churches of St Matthew, St Magnus, St Colme, and the church of the Fair Isle. The three first named are obviously the churches of Dunrossness, Sandwick, and Cunningsburgh respectively, but in what order stated it is impossible to say, there being no other record known mentioning the saints to whom they were dedicated. In the natural order the church of Cunningsburgh should be either the first or the last—St Matthew's or St Columba's; Sandwick being placed topographically between the two. If the latter, the dedication to St Columba would be in entire harmony with the supposition that the church is on the site of an early Celtic foundation.

The church would appear to have been in decay at the beginning of the eighteenth century, as Brand, who visited the islands in the year 1700, passes it by without mention. He expressly states that the churches in the ministry of Dunrossness, "in which their minister performeth divine service," are three—namely, Cross Kirk (Dunrossness), Sandwick, and Fair Isle only. Sir Robert Sibbald, writing in 1711, merely remarks that "in Cunisburgh there is another Kirk built in the time of Poperie."

With this last reference the church of Cunningsburgh passes out of view. No fragment of the fabric now remains standing; but, as has been mentioned, the dead of all the ages of both the Pictish and Scandinavian races lie clustered around it. The inscribed

¹ Timothy Pont's survey is understood to have been made as early as 1608, though it remained unpublished till 1654.

² Mr Pitcairn was minister from 1579 to 1612 (*Fasti Ecclesiæ Scoticanæ*).

stones remaining are very few. One, in particular, is a handsome carved slab of large size, with an inscription now much defaced, but seeming to commemorate one Anna Forrester, of date 1691.

Many relics of the successive stages of the history of this venerable edifice must have been destroyed in forming the churchyard wall, and the dwelling-houses and offices of the inhabitants close by. It is all the more remarkable that, with such occasion for destruction, the precious rune-inscribed relics before described should have been preserved. Besides these and other interesting fragments there is in my possession a small hewn stone, in form resembling an inverted cross with the shaft pointed, also found on the spot (since placed in the Museum). It may have been a grave-stone, or more probably a finial terminating the apex of one of the gables of the church. Another small stone cross, in the Greek form, from the same place, now in possession of Mr James M. Goudie, Montfield, Lerwick, is apparently of the same character. These may perhaps be the only distinctive relics of the church fabric remaining.

Local Landmarks of the Scandinavian Fatherland.

The name of Cunningsburgh is itself very suggestive of the old country. The word is plainly in the northern tongue *Konungs-borg*, burgh, castle, or residence of some king or chief, of whom we shall probably never learn anything. The parish, too, still continues to be the greatest stronghold in all Shetland of the representatives of the ancient Udallers.¹ The prevailing family name is Halcrow, with a number of patronymics (such as Jamieson, Johnson, Laurenson, and Williamson), as usual in all Scandinavian countries.

¹ The destruction of the Udal system generally has been accomplished by an enforced feudalising at the instance of the Crown donatories, and by "gripping" of the lands, or "stressing the Udallers," as it was termed, by larger landowners of Scottish origin. The system, besides, contained the elements of destruction in itself in the minute subdivisions of heritages among heirs, which tended ultimately to reduce individual holdings to mere patches. The result of all this is shown in the Parliamentary Return of Owners of Lands and Heritages, Scotland, 1872-73, in which, though the Udallers (or representatives of Udallers) are surprisingly strong numerically in this parish, most of their holdings (no less than sixteen) are under £5 of annual value, one being entered at 12s. and another at 18s. yearly.

Apart from the Udallers and the rune-carved relics which have been described, there is strong evidence of the race and language of the fatherland preserved in the local names of the district. Every homestead, every hill, rock, and rivulet, tells its own story of a descriptive meaning, although now unintelligible alike to strangers and natives. The earliest list of local names in Shetland is just 327 years old. In 1576 the enormities committed by Lord Robert Stewart, first of the Stewart earls, and by Laurence Bruce of Cultermalindie, acting under him, and in his own interest, as Great Fowde of Zetland, extorted a semblance of justice to the oppressed islanders from the Scottish Government. At a court held for several successive days at Tingwall before commissioners under orders from the Regent Morton, the complaints preferred at the instance of Arthur Sinclair of Ayth, Andrew Hawick of Scatsta, Gawane Gadie of Lougassetter, in Dunrossness, and other patriotic individuals, were established by the voice of about 800 Udallers and other inhabitants, summoned from all quarters of the country. Their names and places of residence are given in the minutes of the court, preserved in the General Register House.¹ Among those present from the parish of Cunningsburgh were the following. In a parallel column are placed the modern place-names, which show little alteration, and in a separate column the probable original forms, and an attempted explanation of their meaning:—

1576.	1903.	Probable original form.	Meaning.
Olaw [in] Flattabustare	Fladabister	Flat-bu-stadr	Place of flat land.
Erasmus af Ockraquoy	Ockraquoy	Akra-kvi	Enclosure of arable land.
Magnus in Howkenassetter	Ukinster	Hogna-settr	Setter of Hogni.
Johannis of Blostoiff	Blosta	Blaut-stadr	Wet place.
Olaw of Hellyness	Hellyness	Hellu-nes	Flat Ness.
Magnus [in] Bramer	Braemar	Breid-myrr	Broadmyre.
Magnus of Cutha	Keotha	(Kjos	A deep hollow place.)
Ereik and Magnus of Goird	Gord	Gard	House, or farm.
Olaw in Starkegar	Starkigard	Styrkars-gard	Farm of Styrkr.
Magnus in Tow	Tow	(Danish) Tue	A hillock.
Symone in Culbinsgarth	Culbinsgarth	Kolbein's-gard	Kolbein's farm.

¹ Printed by Mr Balfour of Balfour for the Maitland Club. 1859.

1576.	1903.	Probable original form.	Meaning.
Swaine [in] Eldegar	Ealdigarth	Eldi-gard	Keep-farm. ¹
Hector of Brind	Brinn	Brunn	A spring.
Nichole of Clapwall	Claphoul or Clap-wall	Klepp-hólr	Lumpy hillock.
Brownie of Scarpagarth	Scarpigarth	Skarpa-gard	Rocky farm.
Magnus in Wastano	Vestanore	?	?
Magnus of Wattisgarth	Vatsgard	Vatz-gard	Watery farm.
Olaw of Maill	Maill	Melr	Sandbank.

To these may be added a few other places in the district, mostly minor names, which do not appear in the above list, spelt, as nearly as may be to their pronunciation at the present day.

Towns (Túns), i.e., Hamlets or Farms.

	Probable original form.	Meaning.
Clivigard	Klofa-gard	Farm at a cleft in a hill.
Voxter	Våg-settr	Place beside a <i>vœ</i> or creek.
Flugalie	Fluga-hlid	Place near a precipice.
Swarthoul	Svart-hol	Dark hillock.
(Swardale ?)	Svardar-dalr	Greensward dale.
Valdigard	Valda-gard	Valdi's farm.
Aithsetter	Aith-settr	Township of Aith (isthmus).

Hills, &c.

Tordal	Torf-dalr	Turf-dale.
Torrafield	Torfa-fjall	Turf-hill.
Hufield	Há-fjall	High hill.
Staraberg	Stjora-bjerg	Stirk's (or Steer's) hill.
Hammerfeld	Hamar-fjall	Hammer-shaped hill.
Tungafeld	Tungu-fjall	Tongue hill.
Musnafeld	Musna-fjall	Mice hill.

Lochs and Marshes.

Engla-mor vatn	?	?
Vatnsgard	Vatns-gard	Watery place.
Laxadale	Laxar-dalr	Salmon-water-dale.

¹ Probably a place for *keeping* and feeding other people's animals. Hence *lambseldi*, an obligation on every householder to feed a lamb for the priest in winter, literally "lamb's keep."—CLEASBY.

Gios (Creeks) and Rocks by the Shore.

	Probable original form.	Meaning.
Sili-gio	Sela-gjá	Seal creek.
Yuxnagio	Yxnagjá	Oxen's creek.
Dunnabacka	Dynja-bakki	Bank of din.
Fugla-stack	Fugla-stakkr	Wildfowl stack.

It would be easy largely to multiply these illustrations, which are taken from a single district, but they are sufficient to indicate with what persistency the Norse language has stamped itself upon the soil, and how reluctant it is to depart, though the original descriptive signification has ceased to be understood.¹

General Prevalence of the Norse Language.

It is not to the place-names alone that we have to look for evidence of the general prevalence of the Norse language in Shetland formerly, and its partial continuance to times comparatively recent. The testimony of George Buchanan (1582), one of the earliest writers known to us who alludes to the subject, is very clear. He says: "The measures, numbers, and weights (of the Shetlanders) are German; their speech, too, is German, or rather Old Gothic" (by which, of course, we must understand Norse).²

This is no mere assertion of the historian. It is a matter of the clearest evidence. Many documents in the old language, framed in Shetland during the time of the Scandinavian sovereignty, and for some time after annexation to Scotland, have been preserved.

At the same time there is no doubt that the Old Norse language died hard. Brand, writing in 1701, after a visit to the islands in the previous year, remarks:—

"English is the common language among them, yet many of the

¹ The explanations of meaning given are merely the most obvious that occur to me, and they may, by change of circumstances, be only approximately applicable now. They are all, however, unmistakably Norse, and their component parts are common in place-names in Iceland now and in ancient times.

² History of Scotland. Buchanan, 1582. "Mensuris numeris, ac pondere ad morem Germanicum utuntur. Germanicus etiam, aut pene vetus Gothicus est illis sermo" (folio 14).

people speak Norse, or corrupt Danish, especially such as live in the more northern isles ; yea so ordinary is it in some places, that it is the first language their children speak. Several also here speak good Dutch, even servants, though they never have been out of the country, because of the many Dutch ships which do frequent their ports. And there are some who have something of all these three languages—English, Dutch, and Norse. The Norse hath continued ever since the Norwegians had these isles in possession, and in Orkney it is not quite extinct, though there be by far more of it in Zetland, which many do commonly use.”

Sir Robert Sibbald, speaking of the parish of Cunningsburgh (1711), where the Runic stones were found, states that “All the inhabitants of this parish can speak the Gothick or Norwegian language, and seldom speak other among themselves, yet all of them speak the Scots tongue more promptly and more properly than generally they do in Scotland.” Sibbald affirms the same thing as regards the language of the natives generally, which he says “they call *Norn*, now much worn out.”

The Rev. Mr Low visited the parish of Cunningsburgh about the year 1770. A zealous investigator of the antiquities and natural history of the country, he paid some attention also to the language, and has recorded an inhospitable formula formerly addressed by impatient Cunningsburgh hosts to tardily departing guests :—

“Myrkin i liora ; lurein i liunga ; timin i gvestin i geunga ;”

that is, in correct Northern—

“Myrkt i ljora ; ljost i lyngi ; timi at gestrinn se genginn ;”

in English—

“Murk (dark) in the liore (or loover, smoke-vent in the roof) ; light in the ling (heath) ; time that the guest should be gone.”

The original is good Norse, though noted only phonetically by Mr Low, without any knowledge of the language. And this was little more than a hundred years ago.

In visiting the island of Foula (Fugl-ey, Fowl Isle) at the same time, Mr Low noted, and has preserved, the Lord's Prayer in the “Norn” of the islands, as then remembered :—

"Fy vor o er i Chimeri. Helagt vara nam det. La Konnungdum din cumma. La vill din vera guerde i vrilden sindacr i Chimeri. Gav vus dagh u daglaght brau. Forgive sinder wara sin wi forgiva gem ao sinda gainst wus. Lia wus ike o vera tempa, but delivra wus fro adlu idlu, for do ir Konnungdum u puri u glori. Amen."

It might be interesting to quote the parallel passage to this in the Scandinavian tongues, to all of which the resemblance is very close; but there is sufficient evidence in itself of its genuine character as the prevailing "Norn" or Norse of a former period in the district. Written phonetically, its slight divergences from the other northern forms are more apparent than real; as in the word "brau" (bread) for *braud* (Icelandic), "dagh" (day) for *dag* (Icelandic and Danish). Here, and in "adlu idlu" for *allu illu* (all ill), the spelling seems more nearly to approximate the pronunciation of the words in Iceland than the correct written forms do. Other words are obvious, such as "Fy," a softening down of *fadir* (father); "vus" for *oss* (us); "gem" for *dem* (them); "u" for *og* (and); a few others are importations from the Scottish ("delivra," "gainst," "tempa" for temptation, "puri" for power, "glori," &c.) "Chimeri," used for heaven, seems at first sight a distorted form (*a himnum*, Icelandic; *i himlene*, Danish). It is, however, the word *Himi-riki* (heaven kingdom), which is used in an old Swedish version of the Lord's Prayer, probably of the thirteenth century.¹

Mr Low also collected, in the same island of Foula, thirty-five stanzas of a Norse poem, recited to him by an old man, William Henry, Guttorm (Guttern?), in that island. As may be supposed, it is wretchedly indited, owing to the illiteracy of the reciter, and Mr Low's own ignorance of the language. It has, however, been revised by northern scholars, and one of its stanzas may be introduced here by way of illustration:—

"Da vara Jarlin d'Orkneyar,
For frinda sin spir de ro,
Whirdi an skilde menn
Our glas buryon burtaga."

¹ Published by J. H. Schröder. Upsala, 1829.

In the Old Icelandic this would be :—

“That var Jarlinn af Orkneyum,
Fra frænda sinum spurdi rad,
Hvert han skuldi möyna
Or gler-(glas)-borginni burttaka.”

And in modern Danish :—

“Det var Jarlen af Orknøer,
Af sin Frænde spurgt om Raad,
Om han skulde Möen
Af Glasborgen borttage.”

This is a rather favourable specimen. Many of the other verses are more difficult to render. The wonder is, in the circumstances, that the obscurities are not more insurmountable than they are. In English the lines may be given as—

“It was the Earl of the Orkneys
Of his friends asked (spiered) advice,
Whether he should a maiden
From a glass castle forth take.”

The poem has been recognised as akin to the Old Scandinavian *Koempeviser* (knightly songs), and based upon the *Sörlathattr*, one of the scenes of which is laid in the island of Hoy in Orkney.¹

I think it is conclusively shown by the foregoing illustrations to what comparatively recent times the Norse language lingered in the Shetland Islands. Traditional fragments of it are still occasionally to be heard ; indeed it is only those who are acquainted with the life and manners of the people that can comprehend how much of it is still mixed up with their ordinary colloquial dialect, and how almost exclusively it embraces the articles of domestic use, and the terms and phraseology of native industry and common life.²

Constantly increasing intercourse with Scotland, Scottish settlers, and Scottish ministers, the English Bible, and schools, have all combined towards obliterating the distinctive traces of the old

¹ The ballad goes on to relate the story of Hildina, daughter of a king of Norway, married to an earl of Orkney, who was afterwards slain by a former lover. The murderer ere long is the victim of a bloody revenge at the hands of Hildina.

² The remains of it still known have been preserved in the ‘Etymological Glossary of the Shetland and Orkney Dialect’ (T. Edmonston, Edinburgh, 1866), of which a copy, greatly amplified, in manuscript, by the late Principal Barclay, is

Udallers and rune-carvers. Hence the great and increasing interest of every early relic that may be able to throw light upon those forms of life the last traces of which are so fast passing away.

Note.—Since the above was first printed new light has been thrown upon the ancient language of the islands by the laborious investigations of Dr Jakob Jakobsen of the University of Copenhagen. His works—viz., (1) ‘The Dialect and Place-Names of Shetland,’ Lerwick, T. & J. Manson, 1897; (2) ‘Det Norrone Sprog paa Shetland,’ Copenhagen, 1897; and (3) ‘Shetlandsoernes Stednavne,’ Copenhagen, 1901—will remain monuments of his learning and industry, and, at the same time, a vast storehouse of information for the student of this department of northern philology. The particular ballad, so singularly preserved in Foula, has also recently been subjected to an exhaustively critical analysis by Professor Marius Haegstad, whose monograph on the subject, ‘Hildinakvadet med utgriending om det norske maal paa Shetland i eldre tid’ (Christiania, 1900), may perhaps be looked upon as the last word on the subject. It is striking to see the deep interest with which this last relic of Shetland *Norse* has been, and still is, regarded by scholars in the motherland of Norway.

II. PERSONAL ORNAMENTS OF THE VIKING AGE.

Few relics of the Viking age have been found in Shetland. It is otherwise in Orkney, where a number of rings and ingots of silver, Viking swords and brooches, &c., have been discovered. In Shetland, so far as I am aware, we have had only one such find—viz., at Clibberswick, in the island of Unst, where an oval bowl-shaped



Viking brooch found at Clibberswick, Unst (now in the National Museum).

in the Library of the Society. The ‘Shetland Fireside Tales, or the Hermit of Trosswickness,’ a work recently published by Mr George Stewart, is also a valuable record of the life and language of the people.

brooch and a trefoil brooch of bronze, of a peculiarly Scandinavian type, covered with zoomorphic ornament, a silver bracelet, and two glass beads were found.



Viking brooch found at Clibberswick, Unst (now in the National Museum).

Another relic of the Viking age is a gold bracelet of plaited wires found some years ago in a peat-moss when peats were being cut. The bracelet is not now known to be in existence, but a photograph has been preserved by Miss E. Marcus, Scalloway, and has been reproduced by the Society of Antiquaries. This is the only example of the occurrence of a gold ornament of this type in Shetland or in any of the northern isles. Silver ornaments of plaited wires in the shape of neck-rings and armlets have been found in Orkney; but the only similar ornaments of gold hitherto met with have been plaited rings of a size suitable only as finger-rings.

But while the islands are thus almost destitute of personal relics of the early Norse settlers, it will, I think, be made abundantly clear in these pages that these settlers have left an indelible impression upon the race and the history of the isles of the "Western Sea" which they so unceremoniously appropriated.

III. DOCUMENTS IN THE NORSE LANGUAGE.

In the year 1840 a small collection of early charters and other legal documents connected with Orkney and Shetland, most of them

in the Norse language, was printed anonymously, but at the instance, I believe, of the late Sheriff Maconochie and Lord Neaves. Some of these, and several other Norwegian and Danish documents relating to the islands, are to be found included in the great northern collection, the '*Diplomatarium Norvegicum*,' issued by authority in Norway. I am now enabled to submit two further deeds, also in the original Norse, and both relating to heritable subjects in Shetland.¹

Formerly the records and miscellaneous papers belonging to the County Court of Shetland received little care or attention. The accommodation provided for them was in every respect unsatisfactory. The documents were left to their fate from age to age, loose or in bundles, in open shelves in the public office of the sheriff clerk, and many papers must doubtless have perished. It is gratifying to know that this state of matters has now been entirely remedied. By the exertions of the present sheriff and the gentlemen of both groups of islands, handsome and commodious court-houses have been erected, with the assistance of Government, both in Kirkwall and in Lerwick, and ample provision has been made for the safety and proper preservation of all the existing county papers. Fortunately other portions of the early records had been removed to Edinburgh, and are preserved in the General Register House.

In the year 1873 Sheriff Thoms permitted me to examine the papers in the office of the sheriff clerk of Zetland. The result of that examination, necessarily hurried and imperfect as it was, is embodied in a list now in the hands of the sheriff, of about one hundred documents or bundles of documents and bound volumes, whose dates extend over a period of more than three hundred years. Many of these documents are of great interest in their bearing on local history, and would well repay a detailed examination, both on historical and legal grounds.

It was in the course of this examination that the two Norse documents which follow came under my eye.

Neither document bears a title, but the first, dated 1516-1545, may be termed a Confirmation of a Certificate of Excambion, in

¹ This paper was communicated to the Society of Antiquaries on 14th January 1878.

connection with a heritable succession in the ancient Udal¹ form, in other words, a *Shuynd Bill*; and the second, dated in 1536–1544, a similar Confirmation of a Deed of Sale, or Disposition, usually termed in the Norse a *Skioðe* or *Kaup Bref*. Both documents are in a fair state of preservation, especially the former, in which almost every word is legible. In the latter there are several lacunæ, which it is not easy to supply, but the sense is nevertheless perfectly intelligible throughout. The seals are gone, but some of the tags by which they were suspended remain attached. The documents themselves were folded, crumpled, and partly torn when I found them, but they have since been laid on cloth, and by this process much of their original appearance has been restored.

Both deeds are written on parchment in ordinary charter handwriting of the period in the Scandinavian North—that of the Deed No. I. more nearly approaching the modern character—and both are in the ordinary Norse language then vernacular in the islands, as in Scandinavia generally. The divergence, by the gradual process of disintegration, from the early type of the Old Northern tongue, as stereotyped in Iceland, is very observable in both, but perhaps somewhat more in the first deed, written in Shetland, than in the second, which is executed at Bergen, in the mother country of Norway. This is not to be wondered at. The wonder rather is, that with the encroachment of Scottish influence and usages from the time of the Impignoration to Scotland in 1468, and even earlier, documents in such comparatively pure Norse should have continued to be framed in the islands down to so comparatively recent a period as the middle of the sixteenth century. Indeed, certain of the ancient grammatical forms are more distinctly exhibited in the composition of the native document than in the other framed in Norway. And contemporaneously with these deeds we have some others, expressed in good current Scots, in Mr Maconochie's collection, significantly indicating the conflict then going on between the old and new systems and races—the beginning of the process of supersession of Udal by feudal tenure; the gradual transition of laws, language, and usages from the ancient native to modern forms.

¹ *Odal* is, etymologically, the more correct form, but I prefer here the term *Udal*, as stereotyped in the islands for ages, and recognised by Scottish jurists.

Both deeds were placed in the hands of Mr Jón A. Hjaltalin of Iceland, a very competent scholar in the Old Northern tongue, with whom the transcription and translation were carefully collated :—

Shuynd Bill—1516-1545.

Vij efftherschiffne Sier andro Hiel Sogneprest och official offuer Hieltland y týmandigt Syer Andro wissiarth sogne He[rr?] Herr wdj sandzting Andres tollach ffogütt nordenn moffue Magnus tollach laugretthmandt ibid och willom brustedt ffogitt wdj Dalletingom Gierre witthrlüg ffor alle att wij haffue setth Horth och grandgüffuelügen offuerlest eyth obittth pappyers breff medt helle Indsigle wstungenn vbeskorenn, och wdj alle Modhe wfforfalskütth Lyend ordt ffraa ordt som her effthr fielger

Allom godom mannom thenam som thette breff Hendhr fforr atth Komma Helssom wij effthrschiffne Mendt Niels willomssonn lauggmandt wdj hieltlandt Tomes Rigadzonn Mag[n]us Jonsszonn Tomes Engusszonn Indbygge y samme landhe Kierlige medt gude Kunnochgorend atth anno dñi M. D. och xvj Mandagenn nesthann fforr Gregorij war wij fforsamledhe paa eydye y eystingom y ffornefnde lande Atth gierde eyth wenlügt och skellügt bytthe Mellom Niels tomesszonn och Margrette sanders dott Alexander tomesszonn skolgetinn dotthr och arffua y sodanna Maathe ath ffornemffne Niels tomeszonn kom ffor oss y fulle och laugls wmbodhe sielffzins paa Eýno Halfuo, Enn paa andre halfuo Torwaldt Hendrichsszonn y fullo wmbodhe ffornefndhe Margrette dott dotthr synna waar thaa thett ffullkommelige samtýck och medt fullo jaaorddhe stadffest erffwingianna emellom atth ffornefde Niels tomessonn skulle haffue y fforneffde Eyde xx mercker brendhe och x mercker y westhri brecko, enn forneffde Margret Sanderss dott lottnast y hennar parth igenn xij mercker y Heelle som hennarh ffader Koýss siig ffor Hóffuidt bólle y fullo wiide sýno paa Retta syuanda dag med synna [] stett och waar ffornefnde Sander elsthe brodhr, Ther ffor eige handseg ffiorsthe wilkor och skall thaa taga andra jarder och leggja Indtill Hóffuidt bólle och giora thet jamgodt som Eyde aat marke talle och haffue the paa badhe sýger samtýck thett biótte, atth wbrideligen geld skall till evindelíg tiid. Túll sandende her wm tryckom wij fforschreffne mendt worr Indsigle nedhenn ffor thette breff som schreffuedt er aar och dag som fforr staar

Huylchet fforschreffne obne pappys breff som er Lyend och Indeholdend wdj alle synne punckter och artikler som fforschrefuet staar thet wittner wij fforschreffne Sier andro Hiel sogneprest wdj Jenst och officialloffuer Hieltlandt, Sier andro wissiarth sogneprest wdj Sandzting, andres tollach ffogett nordenn moffue Mag[n]us tolach, laugrette mandt ther samesteds, och willum paa brostedt ffogett wdj dalletingom medt worr Indsigle hengend nedhen ffor thette breff som schriffuet er paa Edhe y Eydztingum Anno domini M. D. xlv thenn xxvj dag aprillis.

Translation.

We, the afterwritten Sir Andro Hiel, parish priest and official over Hieltland in temporals, Sir Andro Wissiarth, parish master in Sandzting, Andres Tollach Foud [of or in] North Moffue (Northmavine), Magnus Tollach, Lawrightman of the same place, and William [in] Brustedt Foud in Dalleting, Make known to all that we have seen, heard, and carefully read over, an open paper letter, with an entire seal unpierced, uncut, and in every way unfalsified, reading word for word as follows :—

To all good men into whose hands this letter may come, we the afterwritten men, Niels Willomson, lawman in Hieltland, Tomes Rigadzonn, Mag[n]us Jonsson, and Tomes Engusson, inhabitant of the same land, send a hearty greeting in God ; making known that we were gathered together at Eydye, in Eysting in the aforesaid land, A.D. 1516, the Monday next before [the feast of St] Gregory, that we made a friendly and just exchange between Niels Tomesson and Margrette Sanders daughter, the lawfully born daughter and heiress of Alexander Tomesson, in such manner, that the said Neils Tomesson, on the one part, came before us with full and lawful powers for himself, and on the other part Torwaldt Hendrichson, with full powers on behalf of this Margret, his daughter's daughter. Then an agreement was made, and it was confirmed, with full consent, among the heirs, that the said Niels Tomesson should have twenty merks burnt [of silver] in Eyde, and ten merks in West Brecka ; but the said Margret Sanders daughter should get for her share in return twelve merks in Heelle, which her father chose for himself as a Head Buil, while in full possession of his faculties, on the right seventh day with his [?]. And the said Sander was the oldest brother, and had therefore the first choice. And the other lands are to be taken and laid under the Head Bull, and it is to be made equally good as Eyde, according to the number of merks ;

and this exchange has been consented to on both sides that it shall be valid and inviolable everlastingly. In confirmation of this, we, the above-written men, impress our seals underneath this letter, which is written year and day as above.

That the above-written paper letter reads and contains in all its points and articles as written above do we, the above-written men, testify : Sir Andro Hiel, parish priest in Jenst and official over Hieltland ; Sir Andro Wissiarth, parish priest in Sandzting ; Andres Tollach, Foud [of or in] North Moffue ; Mag[n]us Tolach, Lawrightman of the same place ; and William at Brustedt Foud in Dalleting, with our seals hanging under this letter, which was written at Edhe, in Eydzting, Anno Domini 1545, the xxvi. day of April.

This document, dated in the year 1545, is an instrument on parchment by official men, who certify the existence and terms of a previous certificate of excambion between Udal proprietors in the case of a heritable succession settled in the usual form of a *Shuynd Bill* in the year 1516. Its phraseology illustrates the Udal system of succession and land transfer, and other peculiarities of the ancient laws and institutions prevailing in the islands. At both dates the islands were subject in mortgage to Scotland, but the deed clearly shows that the native Norwegian laws and usages, the preservation of which was solemnly guaranteed by treaty, were still subsisting comparatively unimpaired. I have endeavoured, in the form of an appendix, to explain, so far as I have been able, the terms of native law and consuetude occurring in the two deeds, which afford those significant glimpses of the ancient system to which I have alluded.

(A) *The Certificate or Shuynd Bill of 1516.*—The narrative describes an exchange, or excambion, as it would be termed in Scots law, of certain lands in Shetland held under odal succession, between Niels Tomesson (Thomson) and Margaret Sanders' daughter, carried out in the presence of persons of repute, four in number, who attest and confirm the arrangement. The whole parties are designated patronymically in the style formerly almost universal in the islands, and which has been observed occasionally even within the nineteenth century. Niels Thomson appears for himself, but Margaret Sanders' daughter is represented by one Torwaldt

Hendrichsson. This Thorwald is in all probability the same Thorvald Henricksson of Borg, who, as "Thorrald of Brucht," is nominated as one of his executors by Sir David Sinclair of Sumburgh, chief captain of the palace in Bergen, and governor¹ of Zetland, in his testament dated ten years earlier than this—namely, at Tingwall, 9th July 1506.² Thorwald is supposed, by the late Professor Munch of Christiania, to have been a son of Henrik Thorvaldsson, descended from Herr Thorvald Thoresson, who, in the year 1299, possessed the great estate of Borg (or Brough). This estate in 1587 passed into the hands of the Sinclairs, Barons of Brough, parish of Nesting.

Margaret Sanders' daughter is declared to be in possession of the subjects excambied by her in right of her father, who, as eldest brother of the family, had the right, by choice, of the "Head Buil" (*hofud bóll*) or principal manor farm of the property—a right of the eldest odal-born, expressly provided by the Law Book of Norway,³ and recognised as a leading principle in odal succession in every *Shuynd*, or division of heritable or movable estate.

The persons at whose sight the settlement was arranged, are Niels Willomsson, designed as "Lawman in Hieltland," Tomes Rigadzonn (Ringansson or Niniansson), Magnus Jonnson, and Tomes Engusson (Angusson). The only one of these whom we can identify is Williamson the Lawman. Thirty years earlier he was present at a convention held in the choir of the Cross Church of Bergen, in 1485, sitting in judgment upon a case arising out of a disputed

¹ Sir David Sinclair was the Fowde of Shetland for the time. See the Charter of 1498 in his favour, by William, Earl of Caithness, and the other sons and daughters of the late Earl William St Clair of Orkney, conveying to him the estate of Sumburgh, in which he is so designed ("miles et Foldus Zetlandiæ").

² Copy printed in the 3rd volume of the 'Miscellanies of the Bannatyne Club.'

³ The mode of succession is thus laid down in the Law Book, lib. v. cap. 2, art. 63: "Does a father leave odals behind him? Then shall the eldest son succeed to the principal mansion and estate, the other children receiving an equivalent out of the other land; every one his own lot, a brother a brother's lot, and a sister a sister's lot, according to the estimation of neutral men. Is there no son? Then descends the chief manor to the grandson by the eldest son, or by the second, or any other son in order, as nearer the inheritance than daughters. Are there no grandsons? Then belongs the chief manor to the eldest daughter, the rest of the sisters getting land in equivalent, as said concerning the children in general."—Grievances of Orkney and Zetland, p. 8.

sale of certain lands in Shetland¹—a very noteworthy, though by no means uncommon instance, inasmuch as, though the islands were at the time subject in mortgage to Scotland, the appeal is not advocated to a Scottish court, but to the court of the Lawman of Gulating and Bergen in Norway—a circumstance which would seem to indicate that the permanent severance of the islands from the mother country was not then contemplated either in the islands or in Norway; indeed, that their resumption by that country was considered only a question of time.

The date on which the succession of Margaret's father, Alexander Tommesson, was arranged, is singularly expressed—"the right seventh day"—(*paa retta syuanda dag*), the meaning of which I am unable to explain.

The place where the arrangement of excambion is carried out is Aith, in the parish of Aithsting, and the properties referred to are there and at West Breck and Heelle. The land is measured by the usual local denomination of *merks*. The transaction being an exchange, not a sale, there is no *consideration* or price.

(B) *The Confirmatory Certificate of 1545*.—This certificate, which is also executed at Aith, in Aithsting, 26th April 1545, repeats, as has been mentioned, the former document *verbatim*, and its object is virtually stated in itself to be the preservation of evidence of the excambion therein described. Not that feudal succession, or transfer by sale or otherwise, seems to have required the intervention of written instruments, any more than it did of confirmation, in the feudal sense of the term, at the hands of a superior; but we find that in later times such ratification by formal deed was very frequently resorted to.

Of the individuals by whom the confirmatory certificate is granted, two are parish priests—Sir Andrew Hiel (or Hill) of Unst, and Sir Andrew Wissiarth (or Wishart) of Sandsting. These were probably the last incumbents of their respective parishes prior to the sweeping away of the whole fabric of the ancient Church, fifteen years later, at the Reformation of 1560. We are unable to say with certainty whether these pre-Reformation vicars saved their livings by turning with the tide, or whether they re-

¹ Grievances of O. and Z., App. p. ii.

mained Roman Catholic and were ejected. They have not been recognised as Protestant clergymen. The first ministers of the Reformed Church, according to the 'Fasti Ecclesiæ Scoticanæ,' were presented to the two parishes not long afterwards—namely, James Hay to Unst, 31st October 1576, and William Watson to Sandsting in 1574 (he having been previously appointed reader there in 1567).

Sir Andrew Hiel is witness to a deed, in 1528, in which he is designed "*Sr Andro Hill, Vicar off Onst*";¹ and he is mentioned in another deed of 1569. From the latter, in which his former designation of Vicar is retained, it may perhaps be inferred, though he is not classed among the Reformation ministers, that he retained the benefice during his lifetime—that is, till probably near the date of the appointment of James Hay in 1576. Sir Andrew appears from the present deed to have possessed, like many churchmen of the time, a temporal authority—that of "official over Shetland in temporals," as deputy for the Bishop, in addition to his spiritual charge.

The other priest, Sir Andrew Wishart of Sandsting, also bears in the deed a curious designation—*Sogne Her Herr*—"parish lord lord," or "master," implying also a secular dignity or charge. It is only in what we may call the *testing clause* that he is termed "parish priest" of Sandsting. Whatever the precise meaning implied in the words *Her Herr* may have been, the same formula is used in the designation in a deed of 1532, of the Archbishop Gowte of Drontheim;² and in a document of the same year, the same words are found prefixed to the name of King Frederick of Denmark.³

The other attesting parties, along with the clergymen, are Andrew Tulloch, Fowde of Northmavine; Magnus Tulloch, Lawrightman there; and William of Brusted, Fowde of Delting—of none of whom does there appear to be any other record. These parochial officials—Fowdes and Lawrightmen—performed important

¹ Deed of Sale, July 15, 1528. (Maconochie's Col., No. VIII.)

² "Herre hær Gowte med Gutz raade erchebysp i Trondem" (Diplomatarium, ii. 818).

³ Herre her Ffrederick Danm[ar]kis Wendis oc Gottis Konung (ibid., vii. 746).

functions in the police and government system of this little *imperium in imperio* of the Northern Isles. By their means the machinery of local administration was carried on in early times, in a manner that fully maintained the interests of the ruling power—the all-potent Jarl, in the absence of his distant suzerain, the King of Norway—and, at the same time, that most jealously guarded the rights and liberties of the people.

As to the identification of the place-names mentioned in the deed, see Appendix, under the respective names.

The Deed of Sale, a purely Norwegian instrument, though also referring to lands in Shetland, is drawn in very much the same form. The signatories testify that they also “have carefully seen and read over” a former deed, whose terms they repeat and confirm, as in the present instance and in numerous similar instances in those times in Norway, recorded in the ‘Diplomatarium Norvegicum.’ It was a constant practice in the local administration of justice in Shetland, down to comparatively recent times, to have matters of dispute or of personal right determined before local recognised officials, informally or in open court, as the case might be; and I am informed that a similar practice exists in Iceland at the present day. At a district court called *Mann-tals-thing*, held periodically in that country, all deeds or agreements by written instrument, executed in the interim, are read over and marked; and this is held as equivalent to publication, as registration is in this country. Common, however, as the practice may have been in Shetland, as elsewhere in the Scandinavian north, it does not appear in the instances under consideration that this form of ratification was a *necessary part* of the legal formula involved in completing such transactions, because, in the case of the first charter, the ratification is *twenty-nine years*, and in the second, *eight years*, after the dates of the respective transactions.

Deed of Sale, 1536-1544.

Thett Bekendis Wij efter^{ne} Mattie Stórssón Laugmandt wdj Bergen;
Jonñ symonssonn och Anders pederssónn Raadmendt thr samestets att

wij haffue szeett och grandgüffueligen offuerlest ath obit papürs breff
met ath innsigl och füre mercker vnder screffne ; Lydendis ordt fran
ordt som her efter filger.

Alle Mendt the som thz^e breff see elder hóre : Kundgöri jeg niels
angusson att jeg haffuer selth Jon magnus bondiszonn alle myne jorde
partter som ieg agher y hieltlandt som han kand vpspyria mz lagh oc
rett: oc effterfolge scall : som er vi mercker y hamerlande oc y giotonn:
och andzmere hvor han kand thet vp at spýrie vnden meg oc myne
erffuinge : och vnder hann och hns erffuinge tiill ewerdelig eignar : met
alt thz som vnderligger oc leigit haffuer : fra den offste stein y fælde oc
tull den neste stein i fioren : och al Aenge * * * * *
Rec * * * * * och tull ydermer wissen oc sandz :
szo byder ieg thesse gode mendt som saa hetha gewys bý : thomes
ionsson : Sýmon erlandsson : Heming ollszonn sette sýne mercke neden-
fore for thze breff : som giort war y bergenn ste Laffrens dag Anno
Domini m d xxxvj

* * * tull thne wor vdscrefftes sandhets stadfestning haffue wij
same pap[ürs bre]ff * * * * * seg sielff att beuisse saa lenge
thet ware * * * * *
wij thet met wor signetter her vnder * * * * * thne wor
widisse sandt oc fast at were vdj alle maade ; som giort er vdj Bergenn
odensdagen * * Margarete Anno &c m d xliiij.

Translation.

We the after [written] Mattie Storsson, Lawman in Bergen, Jon
Symonsson, and Anders Pedersson, Councillors of the same place,
acknowledge that we have seen and carefully read over an open paper
letter, with a seal, and subscribed with four marks, reading word for
word as hereafter follows :—

To all men who see or hear this letter, I, Niels Angusson, make
known that I have sold to Jon, son of Magnus the Bondi, all my parts
of farms which I possess in Hieltland which he may find out lawfully
and rightly. They are as follows :—Six merks in Hammerland and
Giotonn, as well as other parts wheresoever he may find them out, from
myself and my heirs to him and his heirs, for perpetual possession, with
all that belongs and has belonged to them, from the highest stone on
the hill to the lowest stone on the beach, and all meadows * * *
* * * wreckage * * * * * and for still

further certainty and verity, I ask these good men who are called Thomes Jonsson, Symon Erlandsson, Heming Ollsson, to put their marks under this letter, which was done at Bergen on St Lawrence day, A.D. 1536.

* * * for confirmation of the truth of this our copy, we have
 * * * the said paper letter * * *
 to prove itself as long as it lasts * * *
 * * * with our seals underneath, we [testify] that this our
 certificate is true and unassailable in every way. Done at Bergen,
 Wednesday, [St] Margaret's [day]. Anno, &c., 1544.

This deed is shorter than the former, and deficient, comparatively, in local interest. The general tenor of both is similar, as already observed. A deed of sale, executed at Bergen in 1536 by Niels Angusson, in favour of Jon Magnusson, of all his property in Shetland, is ratified at Bergen by the Lawman of Bergen and his assessors, of date 1544. The remarks under the former deed as to the prevailing conformity of laws and usages in Shetland and in the mother country are equally applicable here.

Of the parties to the transaction nothing further, so far as I am aware, is known. No designation of the seller is given, but he is presumably resident in Norway; and this and other instances of Shetland landholders residing in that country, recall the pretty frequent references to be found in Shetland documents to lands belonging to "the lordis of Norroway," even so late as the seventeenth century, though all knowledge or trace otherwise of those magnates and their possessions has passed away.¹ The disponent is named simply "Jon son of Magnus, *Bóndi*" (i.e., residenter, peasant proprietor).

The conveyance is expressed in the widest terms, embracing the lands named—"as well as other parts, wheresoever he may find

¹ In the thirteenth century a Norwegian duke (*Hertug*) was an extensive land-owner in Shetland, including the island of Papa Stour, in which he had a house ('Diplomatarium,' i. p. 81). Hibbert alludes to a tradition, that during the reign of terror of Earl Patrick Stewart, more than half a century later than the present deed, "many wealthy Scandinavians hastily sold to Scottish inhabitants their estates and interests in the country, seeking a refuge in the more kindly bosom of the parent region from which their ancestors had originally emigrated" ('Shetland Islands,' p. 205).

them out." The descriptive phrase, "from the highest stone on the hill to the lowest stone on the beach," is a significant one indicating the indefeasible right of every bit of occupied land to its share of the common of the hills; and the partly illegible clause, commencing "and all meadows (*Aenge*), . . ." may be made up in the phraseology of later native deeds, expressed in Scots-Norse, thus: "And all Eing and outhwell, ryt and roith, eis and Intres [ish and entry], hous and harbry, toftis, thowns [*tíns*] moillis, inpastor and outpastor," &c.

The word *Rec*, rendered "wreckage," seems to indicate that the right to wreck cast ashore went along with the property, instead of being as in Scotland, where udal holdings are unknown, vested in the Crown. Such a claim by the Crown has recently been successfully contested by an Orkney landowner, standing upon the specific terms of his titles, confirmed by Crown Charter, which in all likelihood merely perpetuated the form of the original holding under the Norse system, as exemplified in the terms of the present deed.¹ In Iceland, wreckage still belongs to the private property on which it is cast. In Norway, the same rule prevailed (as may indeed be gathered from the present deed), that only which landed on the public common being held as pertaining to the King.² The competing rights of landowners and salvors in captured whales, which have immemorially been a subject of contention in Shetland, have probably grown into form gradually along with this question of the right to wreckage and derelict property.

The deed distinctly states that the transaction is a *Sale*, but there is no consideration named, unless the number of merks specified may be regarded as both the extent of the land and its price in merks of silver.

The witnesses are Thomas Jonsson, Symon Erlandsson, and

¹ See the case *Lord Advocate v. R. J. Hebden*, First Division, Feb. 26, 1868. It was contended that the Crown had "sole and exclusive right to all wreck cast upon the shores, or floating upon the coast of the said island of Eday," subject to provisions as to wreck in the Merchant Shipping Act and other statutes, and claims of rightful owners. This contention was repelled, the defender's charters containing right to "wreck and waith," &c. (VI. D. 489).

² Old Norwegian law—"Rek thau öll er rekr i almenninga, thá á Konungr."—*Norges Gamle Love*, ii. 165.

Heming Ollsson, without designations, but presumably Norwegians ; and the date is St Lawrence Day, 1536.

Eight years later this deed of sale is ratified like the other, in the confirmatory deed. The parties attesting are—Mattie Storsson, lawman in Bergen, John Symonsson, and Anders Pedersson, councillors (*Raadmen*) there ; and the date is at Bergen, Wednesday, St Margaret's Day, 1544.

Generally, in looking at these deeds, what is most noticeable is their simplicity and brevity, in such marked contrast to the tediously lengthened forms of later conveyancing. Even what we deem the essential formality of signature is dispensed with ; the appended seals of men of repute being the guarantee of the *bonâ fides* of the document and the validity of the transaction. There are accordingly none of our customary clauses or formalities, no narrative of the *seller's title*, no specified *term of entry*, no clause of *warrantice*, unless the vain assurance that the property shall remain to the purchaser and his heirs "for an everlasting possession" ("til æverdelig eignar") ; no feudal *vassalage*, no claims or *casualties* ; no holding, but of God and their own right arm only. The description of the subjects, too, is very vague—the seller's so many merks land in such a place ; in the second deed, or "*anywhere else*," as the purchaser may discover ! The difficulty of identification would be an insuperable objection to such a form of title in modern practice ; and its sufficiency in a former age exhibits a singularly primitive state of society, in which the mere *possession* of a certain extent of land by inheritance or purchase, attested by witnesses of repute, with or without the evidence of writ, was deemed a sufficient, if not an indefeasible, title.

APPENDIX.

EXPLANATION OF PLACE-NAMES AND LOCAL TERMS.

BRECK, West.—This is probably the Brekka, a portion of which appears in the division of Hans Sigurdsson's estate as falling to Herr Alf Knutson. It is previously mentioned in a deed of the year 1299, in the 'Diplomatarium Norvegicum,' p. 81.

BRUSTEDT.—William in Brustedt is Fowde of Delting in the first deed. According to Munch, this is “Byrstad”—Byjarstadir or Busta, which, in the division in 1498 of the estate of younker Hans Sigurdsson, fell to Herr Otte Mattsson-Romer and his brothers and sisters. Busta is now the manor-place of a considerable estate.

EYDYE (*Eid*, an isthmus).—Village of Aith in Aithsting (also *Eyde* and *Edhe*).

EYDZTING.—The parish of Aithsting, west mainland (also Eysting).

DALLETING.—The mainland parish of Delting (*Dalathing*).

GJOTONN, GIOT.—Gott in Tingwall?

HAMMERLAND.—Six merks here conveyed by Niels Angussøn to Jon Magnusson. *Hamarr* in Northmavine belonged to the Monastery of St Michael in Bergen (Munkeliv's Cloister), given to it in the year 1403 by Thiodhild, daughter of the priest Sira Helge.¹ But I have little doubt that the place at present in question is Hammersland, in the parish of Tingwall.

HEELLE.—There is said to be a place of this name in the parish of Northmavine. A place called “Heleland” is mentioned in the division of Hans Sigurdson's property, before Archbishop Gaute and others in 1490 (‘Diplomatarium Norvegicum,’ vii. 436). Heylor (*Heellr*) is near Hillswick, in this parish.

JENST.—This is another variation of the name of the island of Unst, the etymology of which has proved so puzzling. It is difficult to explain its meaning by Norse etymology. It should, I think, be referred to the Pictish period.

NORDENN MAFFUE.—North Mavine. The original name, as it appears in old documents in the ‘Diplomatarium,’ is Maveid (*Mewaith*, narrow portage or isthmus), which most appropriately describes the locality from which the name of the whole parish is derived. It is called *Nordan Mawed* in a document of King Eric (the Pomeranian), 15th April 1412, and *Nordhan Mawid* in a deed of 1490 (‘Diplomatarium,’ vii. 436). The testimony, as in this case, to the early existence of the present distribution of the Shetland parishes is very clear. In the south of Shetland the northern districts of the country generally are still termed “*da Nordenn*”—i.e., the North.

Of native offices and institutions the following referred to in the charters, or in the foregoing explanatory paper, may be noticed:—

¹ Codex Diplomatarius Monasterii, pp. 97, 98, 167, 169.

LAWMAN OF ORKNEY, FOWDE OF ZETLAND.—The chief officers of law and justice in Orkney and Shetland in ancient times. Thus defined by Mr Balfour of Balfour :—

LAWMAN (Norse LOGMADR, *nomophylax*).—"The President of the Althing, Keeper and Expounder of the Law-book, and Chief Judge of Orkney, ultimately abolished or merged in the office of Sheriff."

FOWDE or FOUDE (Norse FOGETI, Danish FOGUD, *questor Regius*).—"Collector of the King's Skatt, Skylds, Mulcts, &c., afterwards Chief Judge, and ultimately Sheriff of the Foudries of Zetland" (OPPRESSIONS—Glossary).

On the 27th July 1532 Nicol Reid of Aith was elected "Lawman Generale of all Zetland" at the Lawting Court held in the Tingholm of Tingwall;¹ and Niels Thomasson (of Aith) is denominated "Lawman of Shetland" ("laugmann offuer Hieltland") in a deed of 1538.²

About the middle of the sixteenth century, Olaw Sinclair of Havera was the great "Fowde"; and in 1572 Laurence Bruce of Cultemalindie appeared upon the scene in the same capacity, as the instrument of the extortions of Lord Robert Stewart first Earl and Lord of the Stewart race. On the deposition of Cultemalindie the Scottish Sheriff seems gradually to have assumed his place and functions.

The name of Olaw Sinclair of Havera is linked with a strange incident in Scottish history. It was while he was Fowde, in October 1567, that Bothwell, Duke of Orkney, fleeing from the vengeance of his enemies, paid his hurried visit to Shetland on his way to Denmark, and was entertained by Sinclair. Sir Nicholas Throckmorton, the English ambassador at the Scottish Court, makes a curious but natural mistake in reporting the circumstance of this visit to his mistress, Queen Elizabeth. He writes: "The principal man of the isle, named *Fogge*, doth favoure Bodwell, as yt ys sayde, whereby hys partye shall be the stronger," supposing *Fogge* or Foud to be the family name instead of his office.³ The anonymous contemporary author of the 'Diurnal of Occurrents' is more accurate. He says: "In this mene tyme the said erles schyppis passed to ane place quhair the said erle and his complices being in the time foresaid upoun the Ile of Zetland, at his

¹ Complaints contra Cultemalindie, art. 2.

² Diplomatarium Norvegicum, ii. p. 833.

³ Letter, Throckmorton to Sir William Cecil, 1st September 1567.

dinner with Olave Sinclair, foude of Zetland,"¹ &c. Bothwell himself gives confirmation to the story in his first declaration addressed to the King of Denmark, in which he speaks of the arrival of his pursuers while he was "on shore at the house of the Receiver" of the Islands.

The country of Zetland was termed a Foudrie; and the "Foldrie"—*i.e.*, the office, jurisdiction, and revenue of the Foud—was confirmed to Lord Robert Stewart by the charter in his favour of 28th October 1581. In the charter to Earl Patrick in the year 1600, the "Faudrie de *Orknay* et Zetland" is specified, and the "Foudrie of Zetland" alone is annexed to the Crown, along with the Earldom and Lordship by the Act of the Parliament of Scotland, in the reign of Charles II., 1669.

The Fowdes were paid by a small tax called *Thing-för-Kaup* (Forcop).

UNDER FOWDES OR PARISH FOWDES.—These were important parish functionaries thus defined by Mr Balfour :—

"An official in every parish of Shetland, with local duties and powers similar to those of the Head Foud, especially in representing and watching the interests of Government, latterly superseded by the Bailie."

So late as 1604 the "Fouds of ilk parochin and isle" are mentioned in local acts, but they gradually disappeared thereafter. The tombstone of one of them, "Thomas Boyne, sometime Foude of Tingwall," bearing date 1603, remains in good preservation in the churchyard of Tingwall. The names of most of the parish Fowdes about the middle of the sixteenth and the beginning of the seventeenth century can be gathered from the records. The title was variously spelt *Foud*, *Fowde*, *fold*, *feald*. *Votn-tel* was the name of the assessment for the maintenance of these officials.

LAWRIGHTMAN (Norse LÖG-RETTA-MADR).—The office of the Lawrightman was as ancient as it was honourable. He was "ane discreit man"—a kind of Tribune of the people—chosen by the Vard-Thing for the protection of their rights and interests, especially in the matter of the Standards of Weight and Measure, of which he was charged with the responsible custody.

A number of special charges were "hevilie lamentit and complenit, be the said auld Lawrichtmen of the Cuntre of Zetland"

¹ Diurnal of Occurrents (Maitland Club), p. 123.

themselves, at the same time that the general complaints were brought forward by their countrymen (1576). Gradually after this their offices fell into disuse as the native laws and usages were abrogated. The last shadow of their existence, or indeed of that of any of the old native officials, was the RANSELMAN, whose duties in reference to Theft, Scandal, and Marches were laid down in the "Country Acts" framed in the seventeenth century.

See more fully the subsequent chapter on THE FOUDS, LAW-RIGHTMEN, and RANSELMEN OF SHETLAND.

HEID BUIL or HEAD BULL (Norse *Hofud Bol* or *Bu*).—The principal farm of the *Odalsjord*; hence, Bow or Bu, a common place-name, used either singly or as an affix, in Orkney and Shetland. Thus, Boe, Bu of Orphir, Exnaboe. It has already been explained in a note that the "Head Buil" became, by the Odal rules of succession, the property of the eldest Odal-born son, as we have also seen from the first deed under notice.

SHUYND, SCHYND, SCHOIND, SCHEIND, SCHOWND (Norse *Skynd*).—An inquest of Thingmen to examine and arrange all *Erffs* or divisions of real or movable estate.

In the complaints above referred to the Lawrightmen explain that it was "the use and consuetude of the cuntrie quhen ony man or woman deceissis, haveand landis, gudis, or geir, to be divydit amangis the airis, the Underfowde (quhilk is the baillie of the parochin or yle), accompanyit with certane honest nichtboris (come) to the principall houss quhair the persoun deceissit, callit the Heidbuil, for making of the said airschip, callit ane Scheind," &c. Other specimens of the SHUYND BILL framed on such occasions are extant.

THING (Norse).—A meeting, court, or assembly, of which there were various kinds.

1. ALTHING.—The great Assemblage of the Freemen of the country; the name by which the Parliament of Iceland is known at the present day. In Orkney, the Althing Court, presided over by the Earl, met at St Magnus Cathedral, the Circle of Stenness, or other convenient place on the mainland. In Shetland, the place of meeting was the Thing-holm in the Loch of Tingwall (*Thing-völlum*), the Fowde presiding. Latterly the LAWTING Court (Norse *Logthing*), a Court of Law, became the better known name for the great annual assembly, as the occasion for a meeting of freemen for political and general purposes grew less. According to the "Complaints and Probations" against Cultemalindie—"This Law-

ting is the principall Court haldin in the cuntrie in the haill yeir, to the quhilk all men aucht to cum, bayth Mayneland and yles, that hes land and heritage or grit takkis of the King." The last shadow of a local THING was held in 1691. The word Thing came in course of time to signify a district, and hence forms part of the name of several Shetland parishes—Delting, Aithsting, Lunnasting, Sandsting, Tingwall.

While the ancient system of local administration was in operation there were several minor courts, viz. :—

2. HERADS-THING.—A district or parish meeting.
3. HIRDMANS-THING.—A council of warriors.
4. VARD-THING.—A ward or district Assembly.

BONDI.—It is not easy to give a satisfactory equivalent for this term which, originally signifying a *dweller*, a tiller or husbandman, came to designate the entire body of Odal-born freemen, somewhat resembling the "yeomen" of England. In Orkney and Shetland, as in Norway, the Bondi became an important political class. In the latter country they rose in rebellion and slew Saint Olaf, their king, in the battle of Sticklastad. In the islands they maintained their rights in the Parliament of the Althing, where every Odalman (*Odals-madr* or *Bondi*) had an equal voice and vote. In the words of Mr Balfour, "he was a Peasant, for he tilled his own land, and claimed no distinction among his free neighbours; but he was also Noble, for there was no hereditary order superior to his own. The king might wed the Odaller's daughter, or match his own daughter to the Odal-born without disparagement, for he himself was but the Odal-born of a larger Odal. The king might enforce the military service of the Jarl—the Odallers owed none to any of them."¹

About the time when this deed was framed the term was common in Orkney and Shetland, and it continued to be used down to a much later date.

MERK.—This is the usual denomination of land measurement in Orkney and Shetland from the earliest times to the present day. The entire islands seem to have been divided into *Merks* and *Ures* (ounces) when the lands of the Udallers were valued and taxed by King Hacon IV. in 1263.² The measurements are indefinite in extent, representing rather the *value* of the ground. That is to say, what is reckoned as so many merks of *intún*, or good culti-

¹ *Opus cit.*, Introduction, p. xxx.

² Torfæus *Rerum Orcad. Hist.*, p. 169.

vated ground, will be much smaller in extent than an equal number of merks of bare, uncultivated, or inferior ground (*outfield*). In the present and other early deeds the merk-land is regarded as equal in value to the equivalent number of merks of burnt (*i.e.*, refined) silver, in contradistinction to the base coinage current at the time. The value of the land was further estimated as being of so many *pennies* the merk, indicating its relative value, as is so commonly to be observed in Orkney and Shetland titles.

**Charter of Confirmation by King Frederick the Third
of Denmark and Norway (1662).¹**

This and the first six documents which follow range in date from the middle of the sixteenth to the early years of the seventeenth century; one, dated in 1607, being the latest known instrument of any kind framed in Shetland or Orkney in the old language of the North. One of the documents (the Royal Charter) is drawn and executed in Denmark, and three in Norway; the others are apparently native Shetland papers.

The two deeds first in order are the property of John Bruce, Esq. of Sumburgh, who laid open to me the treasures accumulated during more than three centuries in his family charter-chest. In going over these with him, the two documents in question, with many other valuable papers, came under my eye. It is unnecessary to reproduce the former of the two deeds in the original: the translation is as follows:—

We, Frederick the Third, by the Grace of God, king of Denmark, Norway, and of the Wends and Goths, duke of Slesvig-Holsten, Stormarn, and Dytmorshen, count of Oldenborg and Delmanhorst, make publicly known to all: Whereas, there is humbly requested of us our most gracious confirmation of the afterwritten Conveyance, bearing, word for word, as follows:—I, Peder Pedersen, burgomaster of the royal free capital city Kiöbenhofn, acknowledge, and hereby make publicly known to all, that whereas his Royal Majesty, my most gracious Lord, has most graciously mortgaged² and transferred the provosty of the Dom

¹ Submitted to the Society of Antiquaries, 8th December 1879.

² The word in the original is *pandisat* (pawned or pledged). The deed appears to be very similar to the Scottish *wadset*; indeed, but for the absence of the

Kirk of Bergen, otherwise called the Apostles' estate feu,¹ to me and my son Charles Rosenmeyer, burgess and merchant in this city, for a considerable sum of money, which we, therefore, to his foresaid Majesty and the State have justly paid and satisfactorily accounted for, as more fully set forth in his Majesty's deed of mortgage, dated the 25th July anno 1661, whereof a true copy follows. And whereas we, according to the contents of the foresaid deed, are authorised and permitted to convey and transfer to others the foresaid Apostles' feued estate and subjects appertaining thereto, all or any portion thereof, with the like condition and terms, according to the tenor of the deed of mortgage, to be enjoyed as a free and available under-mortgage until the same may be redeemed again by his Majesty and his successors, Kings of Denmark and Norway, the royal house and their heirs for the sum for which it is now mortgaged: I have, therefore, as well as on my own behalf as that of my foresaid dear son, again mortgaged and transferred from us and our heirs the lands which lie in Hetland so far as pertaining to the same Apostles' lands which, according to report, are called, in Hetland, Sundbrog and Umbooth Lands, and paying yearly according to the Rental-Book, five barrels of butter and ten packs of wadmell, and that to the honourable and gallant Captain Lieutenant Lorentz Medelton, his wife, their heirs, and successors, for which he has, according to agreement, paid and remitted to me one thousand and fifty rix dollars money, for which sum—1050 R. Dr.—the foresaid lands and rights are hereby fully mortgaged and renounced to the foresaid Captain Lieutenant Lorentz Medelton, his wife, and heirs, with all the privileges appertaining thereto, fishing and pasture, wet and dry, from fell to foreshore, as now pertains or has from time immemorial pertained thereto, nothing excepting in any particular, so far as to us, according to the tenor of the said deed of conveyance and contents of the Rental Book in Hetland, rightly belongs, and so far as pertaining to the said Apostles' estate, and paying as above mentioned, to enter upon immediately, receive and enjoy, and turn to such advantage as he best knows, and can, altogether in accordance with the true tenor of his Majesty's most gracious deed of mortgage,

technical clauses of feudal law, there is no essential difference. The main feature of the *wadset*—viz., the *actual delivery to the lender* of the impignorated lands—is clearly the feature of the deed, and the transaction may therefore be described more accurately as a *pawn* or *wadset* than as a *mortgage*, in its modern sense.

¹ *Apostels Goetseits lehn* in the original. The contemporary translation in the relative deeds afterwards referred to is "Apostles Land Goods"; but as the word *lehn* invariably means *fief* or *feu*, the term used above, "Apostles' estate feu," is a more accurate rendering.

to be held as a free and available mortgage from Philip [and] James' day¹ in the present year, 1662, to continue aye and until it shall be redeemed by his foresaid Majesty or his Majesty's successors, Kings of Denmark and Norway, the royal house and their heirs, for the before-written sum for which it is now mortgaged, for which same sum [it] shall consequently fall to be redeemed. But if his Majesty should be graciously pleased to make over the said lands in Odal right and possession, then shall intimation be given to Captain Lieutenant Lorentz Medelton, his wife, and heirs, in case they may wish to acquire it to themselves in property and Odal tenure. In witness of this I have, on my own behalf and that of my son Charles Rosenmeyer, affirmed the same with my hand and seal. Given at Copenhagen, the 20th October 1661.

PEDER PEDERSONE.

The before-contained Conveyance we have graciously confirmed and ratified, and we hereby, under our favour and grace, confirm and ratify with all its words and contents as stands before written, forbidding all and every one to hinder or cause impediment to what is before written. Given at our royal residence at Kiöbenhofn, the 28th day of August in the year 1662.

Under our Signet,

FREDERICH.

This deed is in an excellent state of preservation. It is carefully written on paper, in a handwriting approaching the modern German written character, signed by the king, and impressed with the royal seal. The latter bears the legend: *FREDERICUS III. : DG . DANLÆ . NORWEGIÆ . VANDALORUM . ET . GOTHOR . REX*, with an inner legend: *DUX . SL . HOL . ST . DIT . COMIN . (?) OLD . ET . DEL*. —the usual contracted form of the royal designation as given above in the opening clause. The deed bears no title, but I have termed it a "Charter of Confirmation," not from regarding it, in the strict sense, as a feudal confirmation, by a superior, of a vassal's holding, but as a charter by the king ratifying a partial transfer of a former mortgage or wadset granted by himself. I may only remark that whatever there may be in it, as a purely Danish deed, of the nature of feudal technicality, does not imply a correspondence of that character in the Norwegian and native Shetland deeds which

¹ *I.e.*, the 1st of May.

follow. These are purely Udal, destitute of all the terms and conditions which are essential to feudal holdings.¹

King Frederick III., who grants the confirming charter, is a well-known personage in Dano-Norwegian history. In his reign, which extended from 1648 to 1670, an extraordinary revolution occurred, the people having surrendered their liberties into his hands, and rendered him a despotic sovereign. Of the granters of the deed which is confirmed by the king, nothing further is known; the grantee, Captain Laurence Middleton, appears to have settled in Shetland and to have acquired a property there. In an excerpt minute now in my possession, of a meeting of heritors in Shetland, at Lerwick, 11th March 1691, the sederunt includes "Captain Laurence Middleton of Futtabrugh." Futtabrugh is a small place in the parish of Walls (Vagr). It appears that his father was named George Middleton, and his mother Margaret Tyrie, and he was himself alive so late as 1705, a receipt granted by him in that year being preserved among the papers belonging to the estate of Busta.

The lands conveyed in the deed are described as the "Umbooth Lands"² of Sundbrog (or Sumburgh), part of the "Apostles' land goods," belonging to the provostry of the Dom-Kirk (or Cathedral) of Bergen in Norway. How the Cathedral Chapter, or any official member of it, came to be possessed of lands in Shetland, as part of their patrimonial property, is not at present known. Certainly the bishopric of Bergen possessed no jurisdiction over Shetland, the bishop being, like the bishop of Orkney and Shetland, himself a suffragan of the metropolitan see of Drontheim. But the connection between Bergen and Shetland was always very close. The provost of the Cathedral had other lands besides the small piece at Sumburgh—viz., 10½ merks in Helliness, parish of Cunningsburgh; and *Munkaliv's Cloister*, or the Monastery of St Michael

¹ An important article on the question of the feudal *versus* the *udal* character of this deed was supplied to me by Henry Goudy, LL.D., Professor of Civil Law at Oxford, and was printed as part of the original paper. It has not been thought necessary to reproduce it here.

² UMBOOTH LANDS, known also in Shetland anciently as BISHOP'S LANDS. The word indicates merely its being administered by an agent or factor, in place of the absent owner.

at Bergen, had a considerable landed estate in Shetland, particulars of which are detailed in the *Brevbog* or Chartulary of the Monastery.¹ Many private persons residing in Bergen also possessed lands in the islands, as is attested by numerous deeds extant, among others two which follow. Sir David Sinclair of Sumburgh, third son of William, Earl of Orkney and Caithness at the time when the islands were pledged to Scotland, was Great Fowde of Shetland, and at the same time Captain of the Palace at Bergen; but there is no record of any grant by him of land for ecclesiastical purposes. The extent of this bit of Church property being so small, and its situation—interspersed with the manor lands of Sumburgh—so intricate, the probability would seem to be that it had been so held, concurrently with the more extensive estate of the lay owners, from an early period, and that it had not been recently acquired by the Church.² It is found to have been recognised as a separate holding long before the date of the present deeds. In a contract between Earl Patrick Stewart and William Bruce of Symbister in 1592, confirmed by them in 1605, it is described as “four-merk land, six pennies the merk, callit Provestis landis, lyeand rynrig with the 20-merk land of Soundbrugh”; and the earl grants it in feu-farm, with warrandice against any pretenders to it from Denmark or Norway.³ The annual duty (skat?) which it paid is stated in the present Danish deed of 1662 to be 5 barrels of butter and 10 packs of wadmell,⁴ which appears to have been the recognised duty in Shetland previously, as, in the year 1595, William Bannatyne of Gairsay, Sheriff-depute of Zetland, granted receipt to William Bruce for this duty, with 7 merks Scots money added, “for the

¹ ‘Brevbog,’ or ‘Codex Diplomatarius Monasterii Sancti Michælis Bergensis diocesis vulgo Munkalif dicti,’ 4to, Christiania, 1845.

² So early as 1312–1319, there is recorded a grant of Shetland land revenues for ecclesiastical purposes in Norway, but only temporarily. For the completion of Mary-Kirk in Christiania, King Hakon Magnusson makes over “all our incomes of Hjaltland and the Faroes, so that those who have charge of the Kirk’s building and fabric every year shall render account thereof to our heirs, and when the fabric is altogether completed, then shall the foresaid revenues of Hjaltland and the Faroes revert to the Crown.”—Nicolaysen, *Norske Fornlevninger*, p. 426.

³ Official extract in the possession of John Bruce, Esq. of Sumburgh.

⁴ Wadmell (Icelandic *Vaðmull*), coarse native cloth used in payment of rents and duties.

full deweties of ye provest of Norrowayis landis.”¹ In 1635 it is referred to in a receipt for the duties, to Robert Bruce of Simbister, signed by James Scott, “Chamberlain-deput for Zetland, for William Dick off Braid,” as the “four-merk *tak-land*” in Sumburgh; and this distinction between it and the other manor lands of Sumburgh has been maintained down to quite recent times. In the “Skat Book” of a part of the lordship of Shetland, 1778-1779, prepared for Sir Laurence Dundas (then proprietor of the earldom and lordship), and now in the possession of Mr Bruce of Sumburgh, the four merks are separately stated as “Udal,” while the rest of the grounds of Sumburgh is termed “feued land.” The whole duties (*Skat, Wattle, Ox, and Sheep money*) payable by the Sumburgh estate having subsequently been bought up from Lord Dundas, the distinction has now practically (though doubtless not legally) disappeared. How this fractional portion of Church property became part of the estate of Sumburgh, in the possession of the present family, is shown by the succession of deeds, still preserved in their hands,² which disclose the following circumstances connected with this most interesting example of Northern conveyancing:—

1. The provost of the Cathedral Church of Bergen in Catholic times owned a considerable landed estate called the “provostry of the Dom-Kirk of Bergen.” Of this estate a portion was situated in Shetland, including the 4 merks at Sumburgh and 10½ merks at Helliness. The property of the Church having been annexed to the Crown by King Christian III. at the Reformation, the whole of these lands appear to have come into the possession of the sovereign of the united kingdom of Denmark and Norway,³ and were mortgaged or pawned by King Frederick III. on 25th July 1661 (under distinct provision for their redemption by him or his successors at any future time) to Peder Pedersen, provost of Copenhagen, and

¹ MS. in the possession of John Bruce, Esq. of Sumburgh.

² These deeds were printed in the paper as submitted to the Society of Antiquaries.

³ By the Treaty of Calmar in 1397 the three crowns of Denmark, Norway, and Sweden were united; but it must be understood that the Orkney and Shetland Islands though, in that way, under administrative rule from Copenhagen, the chief residence of the sovereign, were yet always an appanage of the Crown of Norway.

Carl Rosenmeyer, burgess and merchant there, for a sum of 35,066½ rix dollars and 16 shillings Danish money.

2. The said Peder Pedersen and Carl Rosenmeyer granted, on 5th August 1661, a commission or factory to represent them in the said estate, to Niels Hansen, formerly provost of Elsinore, and his brother Peter Hansen, councillor of Bergen.

3. Peter Pedersen, on his own behalf, and that of his son Carl Rosenmeyer, granted on 20th October 1661 a partial assignation, transfer, or sub-mortgage of the Shetland portion of the lands, called the "Umbooth Goods" (or lands) of Sumburgh, to Captain Laurence Middleton and his spouse, for the sum of 1050 rix dollars, subject to redemption for that sum by his Majesty or his successors, as before.

4. Niels Hansen and Peder Hansen, by deed of the same date, as commissioners under the deed of 5th August 1661, granted a similar transfer of these lands to Captain Middleton.

5. King Frederick III. confirmed the assignation or sub-mortgage (No. 3 above) to Captain Middleton by the charter, the translation of which is printed above, and which embraces, verbatim, the deed in Captain Middleton's favour.

6. Captain Middleton and his spouse, by contract dated at Scalloway in Shetland, 16th February 1663, make over their whole right and interest in the above Umbooth lands to William Bruce of Sumburgh for the foresaid sum of 1050 rix dollars, but under distinct clauses of redemption by the King of Denmark and Norway, and his successors, all as before.

The series of documents from which the above facts are gathered exhibit a succession and admixture of Danish and Scottish law and forms of conveyancing not less interesting historically than curious to the student of legal antiquity. It is a singular circumstance that the right to so small a portion of the ancient property of the Norwegian Church should have been preserved for nearly two centuries after the annexation of the Shetland Isles to Scotland. It has already been shown that Earl Patrick Stewart treated it as his own property, and took it upon him to make it over to William Bruce of Symbister in 1592, and again in 1605.¹ It continued,

¹ Extract deed in the possession of John Bruce, Esq. of Sumburgh.

however, as already shown, to be regarded as on a different footing from the other (feued) lands of Sumburgh; and a suspicion of a doubtful title seems to have lingered until the year 1663, when, as shown by the documents, William Bruce of Sumburgh obtained a formal title, but only in mortgage, to the four merks in question, by the succession of deeds proceeding from the King of Denmark and his nominees down to himself, seventy years after his grandfather, William Bruce, first of Simbister and Sumburgh, had obtained possession of them by charter in feu-farm from Earl Patrick Stewart. They have since come down, by unbroken descent, to the present possessor.

It is scarcely necessary to say that the right of redemption so clearly provided for has not yet been exercised, but it nevertheless would appear to exist unless extinguished by some of the prescriptions known to law. The exercising of that right on behalf of the Crown of Norway, as coming in place of the ancient ecclesiastical owners, stands indeed in the same position as does the claim of Norway (or Denmark) to the entire countries of Orkney and Shetland, the title of Great Britain to these islands resting exactly upon the same foundation — namely, a redeemable contract of mortgage.

Deed of Sale, 1551.

Thes bekennis wij effter screffne men som saa hede bartell strang hans lúndemann mangus niysbet peder Jonssón dóyis ollsson olaff Sýmonssón for alle med thze wort obne breff thz vij * * * hórdam och segom at wellfornoftiig mann Ingemúnd ědredssón, ý sýn quennes folle och laglyg ombod mairann peder dotter och hennes barn, saalde och affúende týll wellfornomstijg man wýlliom skogssón iiij merke brende yorde lýggend ý gièrdatun for nordann fiell ý onst ý papelle som fornemde marionn hennis fader peder wýlliamssón otte och erfíde effter syn fader och foreldres unden fornemde Ingemúnd endredssón och hans hústrú och barn arffuýnge och effter komende ondre fornemde Wylíom skogssón och hans arffuýnge effter kommende týll [*everdelig*] egn med ollam lodom och lundendom som der týll lýger och legith haffúer fraa effste stenne ý fíelle týll óste stenne ý fioren neden gaar och zin som beder er at haffue en mýste beplýkter jeg fornemde Ingemúnde endredsson meg týll at halde wýlliom skogssón fry okier lós for alt yttermes týll tall heller okier och haffuer jeg

fornemde Ingemúnde opborit fôrsta penning och ssýst som ý wort kiob kom saa meg well att nóger och ydermer wýssen och [*sand*] hed beder jeg desse gode men som forscreffuet er [*ad hún, ia*] deres Insigle och mercker neden for thz mytt obne breff [*som*] paa Sódereyd den 2 dag august moned 1551.

INGEMUND ENDRESSON. PEDER JONSSON. OLAFF SYMONSSON.

(*Mark.*)

(*Mark.*)

(*Mark.*)

Translation.

This acknowledge we, the after-written men, who are thus called Bartell Strang, Hans Lundemann, Mangus [*i.e.*, Magnus] Nisbet, Peter Jonsson, Doyis Ollsson, Olaff Symonsson, before all, by this our open letter, that we * * heard and saw that the honest man Ingemund Endredsson [Henderson], as full and lawful representative of his wife Marionn Peter's-daughter and her children, sold and transferred to the discreet man William Skogsson iiij merks burnt [silver] of land lying in Gierdatun at the north hill in Onst, in Papelle, which the before-named Marionn's father, Peter Williamsson, owed and inherited after his father and ancestors, from the before-named Ingemund Endredsson and his wife and children, heirs, and successors, to the before-named William Skogsson and his heirs [*and*] successors for [*an everlasting*] possession, with all the parts and privileges which belong thereto or have belonged, from the highest stone in the hill to the outmost stone in the foreshore, and * * * which it is better to have than to lose. I, the forenamed Ingemund Endredsson, pledge myself to hold William Skogsson free without challenge for all further demand or charge, and I, the forenamed Ingemund, have received the first penny and the last as stipulated for in our contract, so that I am well content. And for further testimony and verity I ask these good men who are above-written [*to append*] their seals and marks underneath this my open letter [*which was done*] at Soderoyd the 2 day of the month of August 1551.

INGEMUND ENDRESSON. PEDER JONSSON. OLAFF SYMONSSON.

(*Mark.*)

(*Mark.*)

(*Mark.*)

This deed is also the property of Mr Bruce of Sumburgh, found on the same occasion as the preceding one. It is distinctly written on paper, and is in a good state of preservation. The property sold is in the island of Unst, and the whole parties are apparently residents there. The only one of them known otherwise is Barthole

Strang, who was owner of Voesgarth in that island, and was, twenty-five years later, an active opponent of the oppressions of Lord Robert Stewart, first Earl of Orkney and Lord of Zetland of the Stewart family. He left an only daughter, Christina, who in 1622 claimed to be served nearest lawful heir to her grandfather, James Strang of Voisgarth. *Gierdatun* is, I suppose, the modern Garratown, *Papelle* is Papal, *Sodereyd*, where the deed was signed, I cannot identify; the *north hill* must be *Saxaford*, the highest hill in the island, near the north end. A noticeable peculiarity of the deed is the *mark* adhibited by each of the parties signing, not a mere X as usual now with persons who cannot write, but a carefully formed symbol, apparently recognised as the distinctive mark of the individual.

Deed of Agreement, 1594.

Thette Bekennd jegh Chrýstenn Jonnsson Forsell Borger wdi Berenn mz thette mytt opnne Breff och egenn handskryft att jegh haffuer opborrett aff erlige suennnd Wellem Donnellsonn Forsell mynn freund iij (tre) gammell daller och fer Kópmands daller paa mytt gods som jeg arueligenn er tthiill fallend efftter mynn salige Moder Merette Wellems dotter som liger wdi mytt barnnfóde ij ¹ Yettland wdi ¹ Yelle. Och haffuer jegh dze mz sadenn wýllkor opborett att de mýnne freunder forskreffne Donnell Forsells sonner skulle veere de neste mennder thiill at Bekalde mytt gods for de forskreffne penninge som deres salige fader haffuer mygh thiill forn giiffuett for denn partt som mýgh aruelige wor thiill fallen efftter mynn salige fader Jonn Forsell som dereiis fader aff mýgh koptte mz sadann forord att denn lanndskýld som kommer paa mynn partt skall komme mýgh thiill ennd nu ind thiill jegh for mynn siigte peninge aff forskreffne mýnne freunder Donnell Forsells sonner Och thette Bekennder jegh Wellem Donnellsson paa mýne Bróders wegen att der som forskreffne mýnn freunde Chrýstenn Jonn icke far sýnne penninge nar Gud wýll ý waer nar wij kommer jegenn nogen aff oss forekreffne Broderne Bróder daa maa Chrýstenn haffue wor frýe loff att selge sýnn jord huýlikenn erlige mannd hanns sièlff lýster Och * * med sportt de sligeste Bekennd jeg Wellem Forsell att jegh paa mynne Bróders wegen maa högeliigenn och well bettacke wor kjere

¹ The letter here rendered "Y" might be read indifferently as "Z," thus "Zetland," "Zelle." Indeed, the form ZETLAND, which has no origin in etymology, owes its existence to the varying form of this letter.

freund forskreffne Chrýstenn Forsell att hand haffuer * * * wor
 lelighet for * * skyld * * * wij aff erlige mannd forskreffner
 kopt * * att hand wij * * icke selge sýnn partt ý jord thiill nogen
 andenn wdenn thiill os forskreune Donell Forsells barn huijlikz jegh
 miig forplictter paa mýnne Brodres wegen att giore Chrýstenn Jonnson
 enn liidan * * nar Gud wýll wij finnis att svo er ý sandhet som
 forskrýffuitt star seder jegh mýtt signette neden for dette mýtt opne
 Breff och kýerlige thiill beder jegh Jackop Spenns att sette sýtt merke
 her nedenn for thette mýtt opne Breff som er skriffuet wdi Berenn
 Jomfru Marye * * dagh anno 1594.

CHRYSTENN JONSÖ

egenn hand.

Translation.

This, I, Christian Jonnson Forsell, burgher in Bergen, acknowledge by this my letter patent, and my own handwriting, that I have received from the honest man, William Donnellsonn Forsell, my kinsman, three old dollars and four merchants' dollars on my property, to which I have succeeded heritably after my late mother Merette William's daughter, which lies in my native place in Yetland, in Yelle; and I have received this with the condition that my kinsmen, the sons of the before-written Donnell Forsell, shall be the nearest persons [entitled] to claim upon my property for the before-written money, which their late father formerly gave to me for the part which has heritably fallen to me after my late father John Forsell, which their father bought of me; with this proviso, that the rent which pertains to my part shall come to me until I get my said money from the before-written, my kinsmen, Donnell Forsell's sons. And this acknowledge I, William Donnellson, on my brother's behalf, that if the before-written my kinsman, Christian Jonn [son] does not get his money (when God will) in spring, when we, any of us, the before-written brothers' brothers come again, then shall Christian have our free leave to sell his land [to] whatever honest man he himself likes; and * * with * * I, William Forsell, make known that I, on my brother's behalf, greatly and well thank our dear kinsman, the before-written Christian Forsell, that he has * * * our * * * for * * * rent * * we bought from the honest man before written, that he * * * that he * * does not sell his part in the land to any other unless to us, the before-named Donnell Forsell's bairns; which I pledge myself, on my brother's behalf, to do Christian Jonnson a little * * * when God will we

find. That it is in truth which stands before written, I set my seal underneath this my letter patent, and I lovingly entreat James Spence to set his mark underneath this my letter patent, which is written at Bergen, the Virgin Mary's * * day, anno 1594.

CHRISTIAN JONSÖ
own hand.

This acknowledgment, or agreement, is endorsed with a Mandate, which here follows as a separate document.

**Mandate by Christian Johnson in favour of William
Donellson Forssell, 1595.**

Thett Be kennd jeg Chrýstenn Jonnsson Borger ý Berenn mz mýnn egenn hand at Jeg giffuer erligh och well forstandige ssuend Wellem Donnellssonn Forssell bodend wdi Jettland mýnn full magt och Mandiighet att op bere mýnn land skýld wdi Jettland aff denn Jords partter ssom mýgh arueligelige fallend er efftter mýnn ssallige Moder och liger der * * * * mýnne wegne skall ind kreffue och mýg thiill troer hand att bettalle nar Gud wýll hand haff kommer mod woerenn nest och forst kommend worder der mand skríffuer anno 1595.

wnder mytt mercke. (*Mark.*)

Translation.

I, Christian Jonnsson, burgher in Bergen, acknowledge with my own hand that I give an honourable and right prudent man, William Donnellsson Forssell, dwelling in Jettland, my full power and authority to uplift my land rent in Jettland from those parts of land which have heritably fallen to me after my late mother, and lie there * * * * shall collect on my account, and he trusts to pay me when, God willing, he comes next and first ensuing spring [when] one shall write the year 1595.

Under my mark. (*Mark.*)

The foregoing mandate and the deed of agreement preceding it, as also the two following receipts, belonged to the late Mr J. T. Irvine, Peterborough. The documents are in fair preservation, but the handwriting is peculiar and very illegible. Little is necessary by way of explanation, as the papers speak for themselves. They

illustrate the close connection between Shetland and Bergen, maintained for a lengthened period after the annexation of the Islands to Scotland, all seeming to indicate that the severance from Norway was regarded as a temporary and not a permanent arrangement. The name Forsell is the equivalent of Firsell or Fraser, a not uncommon name in the district. The parties would appear probably to have been cousins, thus :—

John Forsell,—his son, Christian *Jonson* Forsell.

Donald Forsell,— " William *Donnellsson* Forsell.

In a deed executed at Reafirth, in the same island of Yell, 10th March 1575, John Firsell of Hascassay and Robert Firsell of Wassason appear as witnesses. Both the documents appear to be holograph of the granter ("Crystenn Jonson egenn hand," *i.e.*, Christian Jonson own hand), and, as simple informal documents, they are in a sense even more interesting than had they been legal instruments drawn up with the usual conventionalities of style.

Receipt, 1602.

Anno 1602. Bekendis ieg Marete Suens doter adt have annamet af Iakop Spens xxviii alna * * uanmal oc an half can smor pa Kristin Daves dother's wegne.

Men Bristes Kristin viij aln uanmal bade for dete ar och saa for udi fior.

Translation.

Anno 1602. I, Margaret Suen's daughter, acknowledge to have received of James Spens xxviii ells * * wadmal and an half can butter on Christina Dave's daughter's account.

But there is still due to Christina viii ells wadmal both for this year and also for last year.

Receipt, 1607.

Transcription.

Thette bekendis ieg Vellem Monsøn uisted att ieg er Sþerren Spens skøldig 9½ daller for en tl smør och bepleghter ieg mig att betthalle forne Sþerren dee 9½ daller dette thiill kommandes sommer som er

dett oc thýll kommandes 1608 thýll otter merre vinnes boerd, setter ieg mynd sedvannelight merrke iher vinden vnder som er gyffued paa kocke b * * den 18 daag Deesember Anno 1607.

VELLEM MONS^{on}. (*Mark.*)

uisted egen
hand.

Translation.

By this I, William Mons^{on}, acknowledge [it] set forth that I am due to Soerren Spens 9½ dollars for a can [?] of butter, and I pledge myself to pay the forenamed Soerren these 9½ dollars this ensuing summer, which is that of the ensuing [year] 1608. For farther confirmation I set my usual mark here found underneath, which is given at * * the 18th day of December in the year 1607.

WILLIAM MONS^{on}. (*Mark.*)

witnessed (my) own
hand.

These two brief receipts, or acknowledgments (1602-1607), are the latest, so far as I am aware, of the documents expressed in the Norse language which have come down to us. It is curious to observe that while the Scottish tongue was by the time in question well established among the natives, some of them thus preferred the use, even for documentary purposes, of the language of their forefathers, practically identical in form with the speech of their kindred in Norway. William Monson (or Manson), the granter of the document of 1607, was, there is little doubt, William Manson of Gairdy, who was then Fowde of Unst, and appears frequently in the records of the Lawting, Sheriff, and Justice Courts of the period, and so late as the year 1615.

Discharge and Sale of Land, 1601.

Transcription.

Kiendis Jeg Herlüff Lauritzon Borger y Bergen oc witterligt gior for alle med dette mit obne breff att epterdi Salig Anne Mogensdotter borger scher her sammesteds y syn Velmagt mz god beraadt hue och sind, och mz hendis Slectis, Suogeris och gode venners Raadt och

Samticke, haffuer selld och affhend fra siig oc sine arffuinger, och till Erlig Mand Annders Smidt boendis paa Noderseater y Hellisuig bygtun, v merkis Jord y Findeland liggendis wdi for Hillisuig bygtun y Hettlandt, renther aarligann x peninge Smór, x str. wadmél Epther som deris kióbe breff. her hoss liggendis wdi sin mening der om ydermere formellder, Oc epterdi forⁿ Anne Monsdotters Suoger ved naffn Siuord paa Urim y Haranger, haffuer ombedit oc beffalet miig att ieg willde tale forⁿ Anders Smidt til, om de peninge som endnu resterit paa forⁿ kiob, och dennom till miig paa hannis wegene anamme, thi hand kunde ike ligge her, och forwagte naar forⁿ Annders Smidt monne hiid komme fra Hetlandt, Och eptherdi forⁿ Annders Smidt haffuer y got folkis nerverelse worit offuer Regenskab mz miig paa forⁿ Siuords wegen oc goduillige wden widere klammer oc trøette betalld den summa som resterit. Saa er alld landskýllde som hand till denne dag skýlldig war, sammeledes de peninge som paa samme Jord wdi deres kiób wdloffuett war, ere nu, dett mindste mz dett mieste, allt samme betallde och fornóiede, epther andre handschrifters lýdellsee som er bleffuen funden epther forⁿ Anne Monsdotters dódt, som miig ere bleffne offuerantuordis, Thi hiembler ieg oc skoder paa forⁿ Siuord paa Urim wegne, forⁿ Anders Smidt oc sine arffuigⁿ forⁿ v merkis jord y findelandt, frj oc frellseligue for rett Odals gods att nyde bruge och beholde, med alle den roett och herlighed som forⁿ Siuord eller hanns arffuinger kunde der udi haffue wdj alle maader, Och schall ieg forⁿ Herloff Lauritzon were hanns Mandt for alld ydermere tilltalle aff forⁿ Siuord och hannis arfuinger y alle maade. Dette till sandheds stadfestning haffuer ieg underhengt mitt signete nedan dette mitt obne breff, Och vanligenn till buditt disse dannemend til windisbýrdt mz mig att besigle, som er Jon Maen, Anders * * * oc Johan Sandersson. Actum Bergen den 27 Julii 1601.

[Four tags—seals lost.]

Translation.

I, Herluff Lauritzon, burgess in Bergen, acknowledge and make known to all by this my open letter, that whereas the deceased Anne Mogensdaughter, burgess here in this same city, in her full health, with well resolved mind and purpose, and with the advice and consent of her family, brother-in-law, and good friends, has sold and transferred from herself and her heirs, and to the honest man Andrew Smith, residing at Noderseater in Hillswick Bay, 5 merks land in Findeland, lying in the foresaid Hillswick Bay in Hetland, of the annual value of 10 pennies butter, 10 pieces wadmél, according to their contract of sale herewith,

whereof the terms thereanent more fully show; and whereas the forenamed Anne Monsdaughter's brother-in-law, named Siuord in Urim in Haranger, has requested and commanded me that I should speak with the forenamed Andrew Smith about the money which still remains unpaid under the forenamed contract, and receive the same on his account, because he cannot remain here and wait for the forenamed Andrew Smith's coming here from Hetland; and whereas the foresaid Andrew Smith has, in the presence of good people, paid willingly and without further quarrelling and contention on the foresaid Siuord's behalf, the sum which remained of the accounts with me; therefore, all the land rent which up to this day was due, as also the money which was promised for the same land under their contract, is now, the least with the greatest, all paid and satisfied, according to the sense of other documents, which have been found after the said Anne Monsdotter's death, and have been delivered up to me. Therefore, I cede and convey, on the aforesaid Siuord of Urim's behalf, to the forenamed Andrew Smith and his heirs, the foresaid 5 merks of land in Findeland free and indefeasible, as property in proper Udal right, to enjoy, possess, and hold, with all right and privilege, which the forenamed Siuord or his heirs could have thereto in any way; and I, the forenamed Herloff Lauritzon, shall be his surety for all further demands of the foresaid Siuord and his heirs in every way. For the confirmation of the truth whereof, I have appended my signet underneath this my open letter, and in the usual way have requested these honest men to seal it in testimony along with myself, namely, Jon Moen, Anders and Johan Sandersson. Done at Bergen the 27th July 1601.

[Four tags appended, but seals and signatures, if any, lost.]

I am indebted to Mr Harry Cheyne, W.S., for this very interesting document, which we came upon in examining the old papers in the Charter-Chest of the estate of Busta in Shetland. It is a Norwegian document on parchment, executed at Bergen in 1601, testifying to the sale of a small property in the parish of North-mavine by a deceased residenter in Bergen to an inhabitant of that parish. The property sold, Findeland (The Findlands?), and the dwelling-place of the purchaser, Noderseater (Nithester?), are places still recognised, I am informed, in the neighbourhood of Hillswick, on Hillswick Bay (or Urie Firth), on the southern coast of North-mavine. This deed also illustrates very pointedly the close and

long-continued connection with Norway, chiefly through, and in connection with, the town of Bergen.

In the year following, 1602, Andrew Gifford of Weddersta, in the neighbouring parish of Delting, pursued an action against James Chalmar in Waiss for four barrels of butter delivered to him to be carried to Bergen "for the payment of the land-meils, dettis, and dewties restand awand be the said Andrew Giffaird to the Lordis of Norway," but which butter Chalmar, after conveying it to Bergen, sold to clear expenses on the ship. (Court Book of Shetland, General Register House.—See Peterkin's 'Notes,' Appendix, p. 38.) The "Lords of Norway," here and elsewhere referred to, suggest a curious inquiry, cognate to the present subject, yet remaining to be investigated.

Conveyance of Land, 1537.¹

The following Deed of Conveyance of a small holding in Shetland, executed in Norway in 1537, about seventy years after the islands were pledged to Scotland, is written on parchment, size about 10 inches by 4 inches, is well preserved, and can be read without much difficulty. It is in the following terms, viz.:—

Alle men theim som thette breff see eller hóre kennest jeg Anna Oluffsdotter mz thette myt opne breff ath jeg haffwer sealth arligh ok fornostigghne man Mans Thomessonne pa Scatstadh en gardh liggende i Hietland som Hammnawogh heithe i Lunnesting sogne ok presthe geldh undan mig ok myne arff [inge] ok effther commendhe ok wndher forscreffne Mans Thomesson ok hans arffinge ok effther commendhe frith ok frielst for mig ok hveriom manne meth latrom ok lunnendom mz holthe ok haghe till fielh ok till fyere innen gardh ok wtan ok alth thne deldh som forscreffne gordh tilligher eller liggith haffwe for forno ok nyo som betther er ath haffwe en mysse inthz wndan skilth ok kennest jeg forscreffne Anna wphaffwe borith mynstha penningh ok mestha ok alth ther mellom effther thy som i wort Kop kom ok till yttermere wissa ok sannighnn bedhe thesse arlighe Dannemen som saa heithe Jorghen Wynther ok Andres Scredr for thetta breff sam scriffne er i Berghen. Anno Domini MDXXXVII.

Two tags are attached, one of them having about three-fourths of

¹ Submitted to the Society of Antiquaries, 9th March 1891.

the seal appended, but the face bearing the impression is worn off. On the back of the deed is written in a different hand, seemingly by the owner of the property, "The Wretting of Hamnavo in Luneisting, 1537."

Folded up with the deed is a translation, perhaps not of contemporary date, for a translation at the time would probably have been unnecessary, the Norse tongue being then sufficiently well understood in Shetland. An accompanying translation preserved in this way is almost unique. It is written on paper, and is therefore in a worse state of preservation than the original parchment. It is rather a free than a strictly correct or literal rendering, and, so far as legible, is as follows :—

To al and sindrey to whos presences this sall come I Ana Oloffs dochter makes manefast by this my present letter that I have sauld to ane honeraball and diskritt mane Mans Tamesone, of Skatstae ane [*an omission here*] Zettland called Hamnawoe lyand in the parros of Lwnastang fre me and [my] aires to the said Manes and his aires frieley and . . . and sindrey the pertenenis wode and watter [fra the] hill to the ebe within dykes and without with all pertenenis pertening therto with all that is better to have nor to have [*sic*] nor to want grantis me to have resavit haill and complet paiement of the full landis pryce and therfor discharges the said Manes and his aires and becais I had no selle proper of my awen I have procurit the selles of diskrit men that ar to say Gorg Wenter and Androw Skriner to be aponted heirto at Berrane in Norwaye ano Dominay jai [vc] xxxvij yeires.

Some of the legal terms do not readily shape themselves to literal analogues in our language, but attempting as nearly as possible a word-for-word translation, the original Norse may be rendered thus :—

To all those men who see or hear this letter I, Anna Oluff's daughter, make known by this my open letter that I have sold to an honourable and discreet man Mans Thomessone in Scatstadh, a farm in Hietland which is called Hamnavogh in Lunnesting parish and priest *geldh*¹ from me and my heirs and successors, and to the before-written Mans Thomessone and his heirs and successors freely and securely from me and all

¹ *Prestgeldh*, the circuit of a priest, sometimes comprising more than one parish, an arrangement perpetuated in the modern "ministry" of the Church in Shetland.

men with . . .¹ with wood and pasture from hill to foreshore, within dykes and without, and all the pertinents which belong to the aforewritten land or have belonged in olden time and now, which it is better to have than to want . . .²; and I, the aforewritten Anna, acknowledge to have received the smallest penny and the greatest, and all there between, as arranged in our bargain, and for further testimony and verification I ask these honourable [and] worthy men who are called George Winter and Andrew Scredr [to append their seals] to this letter, which is written at Bergen, Anno Domini MDXXXVII.

The deed, executed at Bergen, conveying land at Hamnavoe in the parish of Lunnasting in Shetland, may be regarded as an ordinary example of conveyancing in Norway at the period, and in its style and language it is practically the counterpart of similar instruments of sale of udal lands framed in Shetland, though the progress of differentiation in the course of centuries from the standard forms of the earlier language is quite perceptible both in the Norwegian deeds and in those written in Shetland. A deed of sale executed at Unst in Shetland in 1465 is closely akin to the language of the Sagas, while this Norwegian deed of 1537 shows a distinctly nearer approach to the modern Norse—*i.e.*, Danish. Even when the use of the Scottish language became more general, and superseded the Norse in the framing of deeds, the old Norwegian style and forms of expression were tenaciously clung to, the general tenor remaining, as a rule, but slightly changed, and some of the quaintly characteristic phraseology of the Norse being simply translated into the current Scottish. But with the advent of the Stewart earls towards the end of the sixteenth century a marked change took place. Scottish notaries of an indifferent class found their way to the islands in the train of the rapacious overlords, and otherwise; and in their ignorance of native forms, and their struggle to superimpose the alien forms of Scottish practice, confusion in style and language followed, but it was still a long and tedious process before the assimilation to Scottish forms was finally accomplished. In illustration of what has been said as to the uniformity

¹ *Latroni* and *lunnendom*. The meaning of these words is somewhat uncertain.

² *Inthz undan skilth*. There is some dubiety as to the appropriate rendering of these words.

and persistence of style, the following examples may be quoted, viz.:—

The vague definition of the boundaries of the land sold, *till fielh ok till fyere*—i.e., “from hill to sea” or foreshore—used in the present deed, appears in a Shetland deed of 1551 as *fra den offste stein y fielde oc tull den neste stein i fioren*—i.e., “from the highest stone of the hill to the lowest stone of the foreshore”; and in a deed drawn in Scottish the same is expressed thus: “Fra the hyst p^b of the hill to the laues stein off thye Ebb” (signed at Unst 1528); also “Fra the hyst of the hill to the lawest of the Eb” (deeds of 1558 and 1575); and in the same form as late as 1587 in a Disposition by Lord Robert Stewart to his natural son William Stewart, of lands of Ayth.

The expression in the deed *innen gardh ok wttan* is in Shetland conveyances drawn in Scottish rendered literally “within dykes and without” (1561, 1569, 1575, &c.) The clause is an essential one in reference to properties in Shetland, as explaining that the land conveyed comprehended not only what was inside the enclosure from the hill, but also its inalienable right to the Scathald or commonty of the unenclosed hills.

The form of acknowledgment of the receipt of the price of the land sold, given in the present deed as *uphaffwe borith mynstha penningh ok mestha ok alth ther mellom*—i.e., “have received the smallest penny and the greatest, and all there between”—is expressed in similar terms in a deed executed in the island of Unst seventy-two years earlier (1465). In another Shetland deed, of 1551, it is put thus: *opborit forsta penning och ssyst*—i.e., “received the first penny and the last.” This appears in Scottish garb in a Shetland deed of an earlier date, “grantis me content and payit of the full landis pryce the first penny and the last” (signed at Tingwall 27th October 1525); as also in a deed of a few years later—“grantis me content and peit of the first d and the last and all thare betuix” (signed in Unst 24th June 1536), and so late as 1581 in a deed signed at Burgh in Nesting.

The curious phrase in reference to the pertinents, *som betther er ath hafwe en myse*—i.e., “which it is better to have than to want”—is quoted in the same way, *som beder er at haffue en mjyste*, in a native

Shetland deed of 1551; and is used in a word-for-word translation, "all thingis that better is to haif nor want," in a deed executed in the island of Unst in 1561.

Similarly, the averment by the granter of the deed that he is possessed of no seals of his own, and is therefore under the necessity of asking certain discreet and honourable men to append theirs, is common both to Norwegian and Scottish deeds.

But apart from these coincidences and peculiarities of phraseology, what will more readily arrest the attention of the student of law is the absoluteness of the title given, the absence of any recognition of *superiority* in a feudal or any other sense, or of any condition or reservation to impair the completeness and freedom of possession. In earlier times the phrase *til æverdelig eignar*, "for everlasting possession," was frequently used, but a reasonable doubt as to the efficacy of such eternal warrandice seems in the course of time to have arisen, and the phrase fell into disuse. The right of the seller to grant the deed is assumed, as matter of public notoriety, without question and without production or description of title.

Mortgage, or Deed of Pawn, of Land in Shetland, 1597.¹

Jeg Anders Maath tiil Houckeland i Hietlandt oc min kiere hustru Erlig oc welbyrdig fru Else Trondsdaatter tiill Erisfiordt Beplichter os med waare sande arffuinger for alle medt dette wort obne Breff, At wi aff ret witterligh gieldt skyldiigh ere Erligh och Welforstandiig mandt Effuart Sincklar boenndis wdi Hietlandt paa Bollesetter summa tre hundrede Rigs Dalir, huilckie forbemelte penningie envert os aff sin venliig laan laant haffuer, for huilckie summa pendingie, nemlicht tre Rigs Dalir wi med waaris fri wilie oc welberaadt hugh, sampt med allis waaris sande arffuingers widskap wilie och samtöckie, Haffuir pandset forbemelte Effuart Sincklar, hans arffuinger oe efterkommere dette effterschreffne gods som er min kiere hustruis rette Odal, Liggendis wdj Hietlandt, först wdi Wissdals sogn y Öffreböster, tolf march brende, huer march otte pendingie, I Skarpegierdt otte march brende, huer march sex pendingie, noch Degrand i Wisdals sogn sex march brende huer march otte pendingie, noch i Daletings sogn i fornemde Hietland paa ein gaard heder Kirckehuusz tre marche brende, huer marche sex pendingie, Dette forschreffne gods alt samen skall forbemelte

¹ Communicated to the Society of Antiquaries, 13th March 1893.

Effuart Sincklar eller forbemelte hans arffuinger haffue, nyde, bruge oc beholde tiill ein secher oc tryg wnderpant oc brugelig eiedom, med hues der tiil aff arilds tiid liggit haffuer, fraa högiste fields tinne oc yderste fjerre stein, med lottum oc lundom, intil wndertagendis wdi naagen maade, indtil forbemelte Effuart Sincklar eller hans arffuinger igien faar oc bekommer sin fyllist betaling meeste oc minsta aff os eller waare sande arffuinger, oc naar wi dette gods igien löszir, skall deth skie i tre terminer, den förste skall angaa om S. Hanszis tid, den anden om sancte Oluff der strax effter, oc denn tredie skal om sancte Hansz det aar der nest effterkommendis oc naar forschreffne summa pendingie fornöiet och betalit er, som faaresiiger, daa skal forschreffne gods fölgie oss igien som tilforne: Och dess tiill sandingenn her om, Att dette forschreffne saaledis fast och wryggeligenn holdis skall udj ordt punnchter oc artickler, daa haffuer ieg fornemdhe Andres Maat med min kiere hustru trycht waare signeter vnder dette wort obne breff oc wnderschriffue medt egen handt, och tiill ydermere vidnisbyrd her om, daa haffuer wi wenligen ombedit wellerdt mandt her Rasmus Joensönn sogneprest her samme steds med oss at besegle oc stadfeste, Actum Gierisuig denn 20 Junij Anno 1597.

(Seal.)

(Seal.)

(Seal.)

Mowat off Houcheland
Else ttruns daatter
met egen handt

Her Rasmus
Jonsönn minister
manu propria

(*Dorso*)—Andre Movatts Charthour and his wyff vpoun ye landis of Veisdall.

Translation.

I, Anders Maath (Andrew Mouat) of Houckeland (Hugoland) in Hietlandt (Shetland) and my dear spouse the worthy and honourable lady Else Trondsdaughter of Erisfiordt, with our true heirs, acknowledge before all, by this our open letter, that we are justly and truly indebted to the honourable and discreet man Effuart Sincklar (Edward Sinclair), residing in Hietlandt (Shetland) at Bollesetter, the sum of three hundred Rix dollars, which money foresaid he has made over to us in friendly loan, for which sum of money, namely three hundred Rix dollars, we, of our free will and well advised purpose, with the knowledge, will, and consent of all our true heirs, have pawned to the foresaid Edward Sinclair, his heirs and successors, the after described land, which is my dear spouse's just Odal inheritance, lying in Hietlandt, first in Wissdale

(Weisdale) parish in Offreboster, twelve marks burnt [silver] eight pennies the mark, in Skarpegerdt eight marks burnt [silver] six pennies the mark, also Degrand in Weisdale parish six marks burnt [silver] eight pennies the mark, also in Daleting (Delting) parish in the before named Hietlandt, a farm called Kirkhouse, three marks burnt [silver] six pennies the mark. These whole before named lands the before named Edward Sinclair or his heirs shall have, enjoy, use and possess in sure and certain pawn and usable possession, with everything that has belonged to them from time immemorial, from the highest summit of the hill to the lowest stone of the foreshore, with the parts and pertinents, nothing in any way excepted, until the before named Edward Sinclair or his heirs again receive and acknowledge the full payment, the most and the least, from us or our true heirs, and when we again redeem these lands it shall be done at three terms, the first at St John's day, the second at St Olaf's immediately thereafter, and the third at St John's day next after following, and when the foresaid sum of money is fully paid as aforesaid, then the before named lands shall belong to us again as before. And for the verity hereof, that this [contract] before written shall be held sure and unchallengeable in all its words, points, and articles, I the before named Anders Maat with my dear spouse have affixed our seals to this our open letter and subscribed [the same] with our own hands; and for further testimony hereof we have cordially requested the learned man Rasmus Joensonn, parish priest in this place, along with us to seal and confirm. Done at Gierisuig the 20 June 1597.

(Seal.)

(Seal.)

(Seal.)

A. Mowat of Houcheland
Else Trans datter
with [our] own hand

Her Rasmus
Jonsonn minister
with my own hand.

(Dorso)—Andro Mouatts Charthour and his wyff vpoun the lands of Veisdall.

The deed, which is in my own possession, is written on a folio sheet of strong hand-made paper, and is in an excellent state of preservation. The writing is in an ordinary Norwegian hand of the period, and any difficulties in its style have been cleared up for me by a very competent record scholar, Mr Kristian Kören, of Trondhjem.

Various considerations combine to make this deed one of especial

interest. Rendered as nearly as possible in literal form, it may be described as a Mortgage, or, more strictly, a deed of pawn, equivalent to the old Scottish instrument of *Wadset*, of certain properties in Shetland. By this instrument, subjects embraced in the document were not merely mortgaged in security, but were made over in real and corporal possession to the lender, only to be reacquired from him on payment of the borrowed money. The lands so transferred on the present occasion were—

	Merks.	Pennies the Merk.
1. Öffreboster, in the parish of Weisdale,	12	8
2. Skarpegierdt, in the parish of Weisdale,	8	6
3. Degrand, in the parish of Weisdale,	6	8
4. Kirckehuus, in the parish of Delting,	3	6

Öffreböster is obviously Everabister; Skarpagarth and Kirkhouse are the unaltered names still existing; Degrand I have not been able to identify.

The granters of the deed are Andrew Mouat of Hugoland ("Houckeland") in Shetland, and his spouse Else Trondsdaughter, who is declared to be owner of the lands in her own right. She is designed as "of Erisfiordt" or Erisfirth in Norway, and it is signed at Gieresvig in that country on 20th June 1597.

Andrew Mouat, according to the researches of Mr Francis J. Grant, Rothesay Herald, in Shetland genealogy, was the founder of the leading families of that name in the islands. Mr Grant points out that in the Register of the Great Seal there is a Confirmation by King James VI. on 27th March 1577 of a Charter granted by him in favour of John his eldest son, and apparent heir, of 207 $\frac{5}{8}$ merks land in Delting, 34 $\frac{1}{2}$ merks in Aithsting, 8 merks in Walls, 8 in Tingwall, 35 in Yell, and 18 in Unst,—a very considerable estate. Failing John, the inheritance is destined to proceed to Malcolm his second son, whom failing, to Patrick his third son, reserving always his own liferent, and the liferent of one-half of the lands to Ursula Tulloch his spouse. Ursula would appear to have been his first wife, and their representatives are given in 'The County Families of the Zetland Islands,' since published by Mr Grant. We are not, however, at present inter-

ested in this marriage or its issue. It is the later marriage with Else Thronsdatter that concerns us in connection with the deed before us.

Else Thronsdatter or Thronsdatter, as appears from her designation in the deed, was a Norwegian lady, and we are able to identify her on quite independent authority. She was Andrew Mouat's third wife, if we may accept the genealogical table supplied by the learned Norwegian J. Christian Berg,¹ who credits Mouat with a previous Norwegian wife, by name Karen Gyntelberg. Else's father was Christopher Thronsdsson, a Norwegian, who, after an adventurous career, attained to the position of Admiral to the King of Denmark and Norway. He had, besides Else, six daughters—Maren, Magdala, Margaret, Anna, Dorothy, and Christina.

Of those sisters, three at all events are subjects of record: (1) Anna, who, as will afterwards be shown, became betrothed to the notorious Scottish Earl of Bothwell; (2) Dorothy, who is said to have been married to John Stewart in Shetland; and (3) Else, at present under notice. Of the marriage with John Stewart nothing is known in this country, and no satisfactory evidence of it has been produced in Norway, so far as I have seen.

What the connection of this Norwegian family of Thronsdsson Rustung with Shetland may have been it is impossible at the present time to say. But in the deed before us, Else, the wife of Andrew Mouat, clearly appears as a Shetland heiress, the owner of the specified lands in the parishes of Weisdale and Delting, which are declared to be her *rette odal*, or just udal inheritance. She would seem to have been married first to John Haar of Gjerresvig, a property in Norway, where she was residing when the deed was signed, and secondly to Axel Fredrikson, Lawman at Bergen (1569-1585), Andrew Mouat of Shetland being her third husband.

The issue of the marriage with Andrew Mouat is stated by the Norwegian authority above cited to have been Axel Mouat, Christopher Mouat, Karen Mouat, and a daughter not named.

Axel Mouat died on 29th January 1661, at the age of sixty-eight,

¹ "Lehnsbrev paa Rosendal Baronie af 1678," in 'Samlinger til det Norske Folks Sprog og Historie,' Christiania, 1838.

owner of large estates in Norway. He is frequently mentioned (1630-1641) as a naval officer of high rank, latterly as Vice-Admiral of the Fleet, and much employed by the King. His sister Karen, who died in 1675, was married to Ludwig Rosenkrands of Rosendal, who collected all the property of the Mouat family (partly in Hardanger), which was in 1678 made a Barony under the name of Rosendal. Within seventy years thereafter most of this property, once belonging to Axel Mouat, was lost by the Rosenkrands family; and that family becoming extinct in 1723 in the male line, the barony reverted to the Crown. Anders (or Andrew) Axelson, an illegitimate son of Axel Mouat, was living so late as 1690, and I am assured by private information from Norway that his descendants remain in that country to the present day.

Edward Sinclair, the mortgagee, is described in the deed merely as resident at Bollesetter in Shetland. The only person of the name living at the time of whom I have any knowledge, was Edward Sinclair of Marrasetter, third son of Henry Sinclair of Burgh, in whose favour a testimonial was issued by the Sheriff-Depute and several gentlemen of Shetland on 20th July 1610.

It only now remains to refer briefly to Anna Throndsdaughter, one of Else's sisters, whose unfortunate association with James Hepburn, Earl of Bothwell, has already been alluded to, and which is not known to, or has scarcely been recognised by, Scottish historians. In 1559 their father, Christopher Thronddson, had his residence in Copenhagen, and here the meeting with Bothwell probably took place on the occasion of one of his visits to the Continent. We know that he was sent on a mission to France by the Queen Regent in 1560; but while these dates would approximate with sufficient accuracy for this view, both Professor Schiern and Professor Munch hazard the suggestion that the first meeting may have taken place in Shetland, though the evidence for this is not clear. One thing, however, is certain, that the Lady Anna followed Bothwell to the Netherlands, in full reliance upon his honourable intentions, solemnly pledged to her.¹ But there he

¹ The whole facts have been collected by a Danish scholar, L. Daae, in a pamphlet entitled 'Christopher Thronddson Rustung, hans søn Enno og hans datter Skottefruen,' Christiania, 1872, to which I am indebted for these details.

basely deserted her among strangers, in circumstances which resulted in her extreme indigence, her own means, according to her account, having been squandered by him. She followed after him to Scotland; and while no record of her proceedings there is preserved, either in the Register of the Privy Council or in any known minutes of Court, there is little doubt that she urged her claims upon her betrayer with the persistency which she is known to have exhibited elsewhere. She seems to have returned to Norway in 1563, as a passport, in view of her undertaking the journey, was issued in her favour by Queen Mary in that year. This document, in which she is described as "Anna Trundtze, filia Christopheri Trundtze," is preserved in the Royal Archives of Denmark, and the text of it was printed in the '*Danske Samlinger*' in 1866. Her temporary residence in Scotland and her relationship with Earl Bothwell procured for her the designation of *Skottefruen*, or the "Scottish lady," usually given to her afterwards in Norway.

In 1565, Anna Throndsdaughter resided in Bergen; and two years afterwards, when Bothwell, fleeing from his pursuers at Shetland, was seized on the coast of Norway and conveyed as a prisoner to Bergen, she confronted him there, and arraigned him before a court on charges of perfidy and malversation. She accused him of having taken her from her home and country, and conveyed her to a foreign land, under promise of holding her as his lawful wife. These promises he had broken; while, as she alleged, he had no fewer than three living wives,—herself; a lady in Scotland from whom he had procured divorce; and lastly, the Queen of Scots. The particulars of Bothwell's examination before the court are preserved;¹ and he admitted the truth of the charges preferred against him by offering satisfaction in the shape of an annuity from Scotland, and the smaller one of his ships, with all her equipments, which the Lady Anna accepted.

There is nothing to show that Bothwell was ever again approached by Anna Throndsdaughter. Detained as he was in durance for many years in Malmoe and Dragsholm, this would

It is largely drawn upon by Professor Schiern in his '*Life of Bothwell*,' translated by the Rev. David Berry, 1880.

¹ *Les Affaires du Conte de Boduel* (Bannatyne Club, 1829).

have been unavailing. In his dying confession at Dragsholm he makes no reference to her, but is represented as admitting having accomplished the ruin of two Danish ladies, besides others in France, England, and Scotland. No such admission is made in his earlier narrative, quoted in 'Les Affaires du Conte de Boduel,' where he justifies his proceedings throughout.

The "Scottish lady" survived the perfidious Bothwell for a number of years. In 1594 she is stated to have been seen at the Kirk of Ide in Norway; and in 1607 she, by a formal instrument, made over her paternal property of Seim, in that country, to her sister Else, the joint-granter of the deed which forms the subject of this paper. Thus is this informal writ, in reference to small bits of land in Shetland, oddly brought into association with a romantic, if obscure, incident in Scottish history—viz., the entanglement of a Norwegian lady in the eventful and tragical career of Bothwell.

Note.—The remarkable incident to which reference is made above, between Anna Throndsdaughter and the Earl of Bothwell, is the subject of an elaborate and romantic Note by David Masson, LL.D., the Historiographer Royal, in his Introduction to volume xiv. of the Register of the Privy Council of Scotland, published five years after the date when the above was written. The matter presented itself to Dr Masson's notice when he found in the Privy Council Register the entry of the passport granted to Anna, dated 17th February 1762-63, in view of her going abroad from Scotland, where she then was; and in the Note more than ample acknowledgment is made for the information supplied in the above communication.

**Commission by King Christian the Fourth of Denmark to
Magnus Sinclair, Captain of the Ship Leoparden, 1627.¹**

This is a Danish State document, a Commission to one Magnus Sinclair, a Shetland captain, to cruise, under the protection of the sovereign, in Danish waters. It is written on a sheet of strong hand-made paper, water-marked, 16 inches long by about 13 inches

¹ Submitted to the Society of Antiquaries, 12th March 1894.

in breadth, signed by three officers of the Council of State, in the absence of the King (1627), and sealed with the common seal of State, impressed, through intervening paper, on wax. The commission is expressed in the Danish language then in use, and is in the ordinary Danish handwriting of the period.

It may be sufficient to give it merely in translation, which is as follows :—

We Christian the Fourth, by the Grace of God King of Denmark, and of the Vandals and Goths, Duke of Slesvig Holstein, Stormaren and the Ditmarches, Count of Oldenburg and Delmenhorst, make known to all that we have graciously been pleased to despatch the bearer of this letter, Magnus Sinclair, Captain of the Leopard, that he may during the ensuing summer sail in our own and the crown's seas, to perform which we graciously commit to him, and again to return. For which purpose we cordially request our dear friends, neighbours, and kinsmen, and in like manner urgently require and command all our justices ["Fouds"], magistrates, and all our other subjects among whom he may happen to come in the course of his voyage with the beforenamed ship, and the goods contained [in her], that ye allow him to pass therewith without hindrance, and if he by storm and winds be driven into any of your harbours, that ye at a reasonable cost supply him with men, victuals, anchors, cordage, and whatever else he may need and inform you of. All which we will compensate and make good to our beforenamed dear friends, neighbours, and kinsfolk in the same or some other way, and earnestly require at the hands of our own subjects. Given at our Palace at Copenhagen the 21 April in the year 1627.

Under our Seal.

His beforenamed Majesty's specially ordained Council of State in his Majesty's absence.

CHRISTENN FRIIS.	HANSZ LINDENOV.	FRANTZ RANTZOW.
	Own hand.	With my own hand.
	(L.S.)	

(Dorso) Leoparden.

In the original document the name Mogens (or Magnus) Sinclair is written over a previously deleted name, which seems to read "Mogens Davidszen." It is possible that Magnus Sinclair and Magnus Davidson (*i.e.*, Magnus the son of David) might be meant for one and the same person, merely differently expressed, the latter,

the patronymic form, being still common over the Scandinavian north, or at any rate only, as in Shetland, discontinued within the last century.

Who, then, was this Magnus Sinclair, a foreigner, in Denmark, specially commissioned in this way? And what can we precisely say was the nature of his Commission?

These interrogations are not, in any very conclusive way, answered by the document. Sinclair is simply described as "the bearer of this letter" and as "Captain" of the ship *Leoparden* (*The Leopard*). Many persons of the name of Sinclair were at this time, as well as earlier and later, in the service of the Kings of Denmark and of Sweden, and are also mentioned in the records of Norway. Michell, in his 'History of the Scottish Expedition to Norway in 1612,' refers to this very fully, quoting several names well known in those countries; among these a Danish nobleman, Anders (Andrew) Sinclair, who emigrated from Scotland in 1607; a "Captain Sinclair," referred to in 1645, possibly the very person we are considering; and also a David Sinclair who, in 1669, was appointed Foud or Bailie of Eger, in Norway, by King Frederick III. The indications are not, however, sufficiently clear to lead to identification; but that Magnus Sinclair was a Shetlander, of one of the numerous families of that name in the islands, is beyond a doubt, the document having been preserved, as a family paper, among the deeds and documents of the Sinclairs of Houss, latterly "of Scalloway," though its nature or import, or even its existence, does not appear to have been known in recent generations. The name of Magnus does not, however, appear in the genealogical line of this family later than the Magnus Sinclair who was laird of Houss in the latter half of the sixteenth century, and who may not improbably have been the father, or grandfather, of the present wanderer, who sought fortune under the flag, not of perfidious Albion, but of the King of Denmark, whose predecessors were the liege lords of his ancestors.

The ship commanded by Sinclair was not one hailing from Shetland, or of Scottish origin, as may be inferred from its name "*Leoparden*." The document itself, in the reserved terms in which it is expressed, would seem to indicate little beyond merely

mercantile pursuits in the objects of the cruise, for a temporary period, in Danish waters ; but the fact of the special and formal intervention of the royal authority, the instructions to subjects everywhere to come to the rescue, at all times when requisite, with men and equipments, and the pledging of the Crown to make good the cost of any such aid, can scarcely be interpreted as implying other than service to the State in the cruising of The Leopard.

Letters of marque issued to private adventurers, or "privateers," authorising them to make war upon, or seize, the property of another nation, were recognised by all the European Powers until abolished by the treaty of Paris in 1856. Without such authority these adventurers were themselves liable to be seized as pirates. No such express authority is here given, but the possession of a warrant from the Crown of Denmark could be read as sufficiently elastic to sanction efforts offensive and defensive, either against pirates or, if occasion served, in acts of piracy pure and simple.

At this time, and indeed for centuries, the North Sea was infested by pirates, from whom the shipping in the north of Scotland, especially in Orkney and Shetland, and on the coasts of Norway and Denmark, suffered greatly. Cases of such piratical seizures are of constant occurrence in the judicial records of the Privy Council, with representations by the Scottish Government to the English authorities and to Continental States and municipal governments ; and the value of the services of Sinclair, an expert seaman, intimately acquainted with the coasts of the North Sea, both on its eastern and western shores, can be readily apprehended.

Christian the Fourth, in whose name the letter of Commission is issued, has been regarded as the greatest of the Oldenburg princes ; but, great though his talents were, and supreme his devotion to the best interests of the country, his long reign, which extended from 1588 to 1648, cannot be regarded otherwise than as a disastrous one for Denmark. He was frequently involved in war with Sweden and with Germany, and at the date of the letter the nation was plunged in the great struggle between the Catholic and the Protestant Powers of Northern Europe known as the Thirty Years' War. After laying waste the Protestant States of Southern Germany, the

Imperialist generals Tilly and the celebrated Wallenstein had carried the war north into Pomerania. King Christian, at this critical juncture, yielded to the appeal of the Protestant princes, and in 1625 led a Danish army against the invaders. For three years he prosecuted the war with energy. Meantime the enemy entered Denmark by Slesvig and Holstein, committing depredations and slaughter in every quarter; and Christian, obliged to withdraw from the war in 1629, returned in perplexity to his own country, which was then in a miserably exhausted condition, leaving to Gustavus Adolphus of Sweden the glory of leading the princes of Germany to victory over the forces of the Emperor.

It was while King Christian was absent in the German war in this way that the Commission to Captain Sinclair was issued—"Given at our Palace, Copenhagen, the 27th April, anno 1627. His Majesty's specially ordained Council of State in His Majesty's absence." In the circumstances of the time a tried sea-dog like Sinclair, familiar with every port and creek of the North Sea, would readily be intrusted with a ship under the Danish flag, equipped for trading purposes, or for trading and warlike purposes combined. Englishmen and Scotsmen were indeed in those times largely employed in the service of the Scandinavian kings, as has been already mentioned. It was in 1612 that the ill-fated Scottish expedition under Lieut.-Colonel Alexander Ramsay and Captain George Sinclair, for the aid of the King of Sweden in the war with Denmark, landed in Norway, and were cut to pieces in Gudbrandsdal by the Norwegian peasants. Gustavus Adolphus is said to have had some thousands of English and Scottish adventurers under him in the German wars; and the likelihood of Sinclair's being employed in the Danish service would probably be accelerated by the fact of his being a Shetlander. It was at the time in question not much more than a century since the islands, by the deed of pawn in 1468, had ceased to be directly administered from Denmark as a dependency of the Dano-Norwegian Crown; and, as I have frequently had occasion to point out, from illustrations supplied by contemporary documents, the closeness of that ancient intimacy was very slowly relaxed. It may be, however, that this Commission to Captain Magnus Sinclair may be the last recorded instance of a Shet-

lander occupying a position of trust, by direct appointment of the sovereign, in either Denmark or Norway. He would appear to have returned to his native country, and to have left the Commission as a personal relic to be preserved by his family.

The number of ancient documents in the Norse language relating to Shetland is considerable, as these are recorded in the 'Diplomatarium Norvegicum,' issued in Norway, and since reprinted at Lerwick by the late Mr Arthur Laurenson. In addition to these deeds which have been brought to light by scholars in Norway, a number of others in the old Norse have been preserved in Shetland. Of these, the following are printed in the pamphlet issued in 1840 anonymously, but it is understood at the instance of Sheriff Maconochie and Sheriff (afterwards Lord) Neaves, viz.:—

1. Deed of Sale, Andrew Williamson to Simon Hognason, of land of Walol in Unst. Dated Unst, 1465.

2. Deed of Conveyance by Olaff Persson, residing in Fedie in Norway, to David Sanderson in Refirth, Yell, of land of Westhus in Burgh in Whalsay. Dated at Bergen, 24th April 1567.

3. Deed of Conveyance by Niels Monson, described as a native of Shetland, in favour of the said David Sanderson, of lands of Gerde in St John's parish in Yell. Dated at Bergen, 27th April 1567.

4. Deed of Conveyance by Marion Sigurd's daughter, residing in Bergen, from herself and her late sister, in favour of her "dear relative," David Sanderson Scott, residing at Refirth in Hietland (Shetland), of lands of Biella in Fetlar. Dated at Bergen, 16th August 1575.

5. Deed of Conveyance by Anna Sanders' daughter, residing in Bergen, in favour of her "dear brother, David Sanderson Scott" before named, of her odal lands in Refirth. Dated at Bergen, 18th August 1575.

There is recorded in Mackenzie's 'General Grievances and Oppressions of the Isles of Orkney and Shetland,' published at Edinburgh in 1750, a document issued in Norway, viz.:—

6. Decree by the Law-man of Bergen, and also by the Law-man of Shetland, and their Council, reversing a sale of land in these Islands as made contrary to law. Bergen, 1485.

The deed No. 1 of the above list is reproduced by the phot zincographic process in the 'National Manuscripts of Scotland,' part ii. No. lxxviii.

In addition to the above deeds, it has been my own good fortune to come upon the following twelve documents among the public papers of Shetland, or in the charter-chests of gentlemen connected with the county, and which have now been printed here, viz.:—

1. Attestation by certain Parish Priests, Fouds, and a Lawright-man, in 1545, of an Agreement of Excambion, between Niels Tomesson and Margrette Sanders' daughter, of land at Aith, in Aithsting (*Eyde y Eystingom*), in 1516.

2. Attestation, dated at Bergen, 1544, by a Lawman and two Councillors there, of a Deed of Sale by Niels Angusson to John Magnusson, of 6 merks of land in Hamerland and Giotoun in Shetland, in 1536.

3. Charter of Confirmation (in Danish) by King Frederick the Third of Denmark and Norway, of Assignment by Peder Pedersen and Carl Rosenmeyer in favour of Captain Lorentz Medelton (Laurence Middleton) and his spouse, of 4 merks of land at Sundbrog (Sumburgh), formerly belonging to the Provost of the Dom Kirk (or Cathedral) of Bergen. Dated at Copenhagen, 28th August 1662.

4. Attestation of Sale by Ingemund Endredsson (or Henderson), as representing his wife and children, to William Skogson, of 4 merks of land at Papil in Unst. Dated 2nd August 1551.

5. Agreement by Christian Jonnsson Forsell (Fraser), Burgher in Bergen, in reference to the succession to certain lands in the island of Yell belonging to him. Executed at Bergen, 1594.

6. Mandate by the said Christian Jonnsson in favour of William Donnellsson Forsell in Shetland to intromit with the rents of the above-mentioned lands, 1595.

7. Deed of Sale by Herluff Lauritzon (Laurenson), Burgher in Bergen, acting for Sigurd of Urim in Hardanger, to Andrew Smith, residing at Noderseater in Hillswick Bay, of 5 merks of land there. Dated at Bergen, 27th July 1601.

8. Receipt by Margaret Suen's daughter to James Spens for 28 ells Wadmal and a half can butter on Kristin Dave's daughter's account, 1602.

9. Acknowledgment by William Monson of indebtedness to Soerren Spens for $9\frac{1}{2}$ dollars, 1607.

10. Deed of Sale by Anna Oluff's daughter to Magnus Thomesone in Scatsta of a farm in Hamnavoe, parish of Lunnasting. Dated at Bergen, 1537.

11. Mortgage, or Deed of Pawn, by Andrew Mouat of Hugoland, 20th June 1597.

12. Commission by King Christian IV. to Magnus Sinclair, captain of the ship *Leoparden*, 21st April 1627.

The documents in the Norse language which have been preserved in the islands are thus, so far as known, eighteen in number, besides one, as yet unpublished, in the possession of the representatives of the late Mr Arthur Laurenson, making nineteen in all. I have been particular in describing these documents briefly here, because it may not be improbable that the series is complete, and that no further relics of the kind may ever be discovered in the islands.

While so many documents in the Norse have been preserved in Shetland, only one such document is known to have come to light in Orkney,—a Deed of Sale by Henrik Soost to Guttorme Georgeson and William Georgeson of the land of Holland in Papa Westray, dated 1452.

These documents, preserved in the islands from the time when the current native dialect and the language and legal forms of Norway were mutually intelligible, and interchangeable, form a not unimportant item in the material from which a just understanding of local history may be derived. Some of them are written in the islands, and some in Norway, evidence not only of this community of language, but still more emphatically of the then continuing community of race, interests, residence, and intercourse, all which in recent times have entirely disappeared. They are also interesting to the lawyer and to the philological student as illustrating the gradual development, and the process of assimilation of the law and the language of the islands to Scottish forms, for which purpose they require to be studied along with examples of conveyancing and other documents in the Scottish tongue by which they were immediately succeeded in the sixteenth and seventeenth centuries.

IV.

MISCELLANEOUS PAPERS ON THE HISTORY OF THE
ISLANDS AND THE SURVIVAL OF THE ANCIENT
LANGUAGE, LAWS, AND USAGES.I. ANCIENT LEGAL DOCUMENTS (LAY AND ECCLESIASTICAL)
PRESERVED AMONG THE PUBLIC RECORDS OF SHETLAND.¹

THE deeds which follow are a selection from the collection of native papers which have accumulated in the course of centuries in the hands of the public functionaries in Shetland, and which, so far as they have escaped destruction, are now preserved in the new Sheriff Court Buildings in Lerwick. It is surprising that so many papers of interest have come down to the present time, considering the vicissitudes through which the local government of the islands has passed since their annexation to Scotland. The long lineage of Scandinavian Jarls, from Rögnvald of Moeri in the ninth century, was superseded by a race of rulers of Scottish blood, under whose sway the local laws and institutions of the country, guaranteed by the Treaty with the Dano-Norwegian crown, were gradually subverted and assimilated to those of Scotland. In the course of these changes the Great Foud and Lawman, the Under Fouds and Lawrightmen, and all other officials in charge of the local courts and local records, disappeared. Justice, instead of being regulated by the Norwegian BOOK OF THE LAW, and later, by the native municipal code known as the "Country Acts," came to be administered in conformity with the Statute law of Scotland.

¹ Communicated to the Society of Antiquaries, 10th April 1882.

The Courts of the Stewart-Depute and Sheriff-Substitute came in place of the open-air assembly of the Lawting and the parochial Courts of the Under Fouds. The court of appeal, formerly, and for some time after the annexation, at Bergen in Norway, came to be the Court of Session at Edinburgh. And lastly, the seat of the local chief Court, from the earliest ages at Tingwall and Scalloway, was transferred to Lerwick, the modern capital. During all these changes many papers have been preserved, and many more have been lost; for no suitable provision for their safety was ever made until quite recently.¹ In the year 1873 I made an examination of these papers, then undeciphered and their character unknown, and the documents which follow have been selected as being for most part the oldest, and perhaps the most interesting, in the collection, apart from the two documents in Norse described in the preceding chapter.

The documents are fourteen in number, all on sheets of parchment. The earliest is dated in 1491, and the latest in 1588; except one deed, an ecclesiastical presentation by Earl Patrick Stewart, imperfectly decipherable, but evidently of the date of one of the early years of the seventeenth century. Some are granted by ecclesiastics, but most by laymen; two are presentations to benefices; and the rest almost exclusively represent sales of, or other transactions affecting, land. They all exemplify peculiarities of the local laws and usages, now seeming strange and unknown. And the time which their dates cover was a specially interesting one, when the transitional conflict between the old Scandinavian and the Scottish, in language, institutions, and race, was at its stage of greatest intensity in the islands.

When the deeds were first examined they were all in a crumpled, torn, and decayed state. They have now been laid out on cloth, pressed, and otherwise so renovated that their original appearance is to a great extent restored. Their deciphering and transcription was a somewhat laborious, but not very difficult task, accomplished, in spare hours, with the assistance of my friend Mr Alfred W. Johnston.

¹ An important collection of Northern papers, including the earliest preserved Registers of the local Land Writs, is in his Majesty's General Register House.

Much of the deeds is of course formal and technical. A few of them are printed in full, and an abstract given of the contents of each of the remainder. Some of the more peculiar features which they exhibit and illustrate may be specially noticed.

1. The Udal System.

What is most observable in the deeds is the entire absence of the usual feudal clauses of Scottish conveyancing. The sale is direct and absolute from the granter to the grantee. There is no feudal *consent*; only in some cases that of the next of kin. And this is in conformity with the principle in Udal law that a heritage must first be offered to the Udal-born before it could be alienated to a stranger. There is no suggestion of *confirmation* by a superior; no clauses of *Tenendas* and *Reddendo* in the feudal sense; no recognition of vassalage in any form. The Udaller held his land without condition or limitation in any feudal sense. This, as is well known, was the cardinal principle of the old form of land tenure in Orkney and Shetland, as in the fatherland of Norway; and the forcing upon the islanders of feudal charters, with their attendant burdens, is one of the principal grievances of which they have had so frequently to complain.

There is among the deeds one exception to their otherwise universally Udal character. This is a feudal charter by Lord Robert Stewart, to his natural son William Stewart, of a small parcel of land in Shetland in 1587, "to be holden of us and our airis in few," with a *Reddendo* of butter and wadmell yearly, and "dew service as use is." It was Lord Robert who first and most effectually *stressed* the Udallers by forcing feudal charters and other burdens upon them; and while it was his policy to grant charters in this form, the probability is that the ground "giffin, grantit, and disponit" by him in this instance was part of the Lordship of Zetland which, along with the Earldom of Orkney, he himself held under a redeemable grant from the Crown.

It has long been a question whether, under the Udal system, actual writ was necessary as the title to land. In a case before the Court of Session (about the year 1640) one of the litigants con-

tended that "Udall ryght is by succession and schownd-billis and other evidents," while his opponent alleged that the Udal right was "only be successive possession without schownd-bill or anie other evident."¹ Erskine affirms that originally "the right was held by natural possession, and might be proved by witnesses." Bell, founding upon Stair and other authorities, says that "the title to land was judicial; by an entry of the heir in presence of the Foude or Governor's court, a decree of that court being the title." This latter view would seem rather to be borne out by the present deeds. They show, at any rate, that if not absolutely necessary, formal writ was not unusual in the sixteenth century. It is observable, however, that the seller never refers to any preceding writ or title. The sale invariably proceeds upon his reputed and acknowledged ownership merely.

2. The Shuynd Bill.

This, as indicated under the last head, is the decree of the Court of the Great Foud regulating the rights of heirs in cases of succession to landed or movable property, as described by Gifford and by Hibbert, and of which a specimen (Olave Sinclair of Havera, head Foud) is given as No. 14 of the small collection of northern deeds printed by Sheriff Maconochie and Lord Neaves. The following deed No. VI. (1546) bears to have been executed in the presence of the same high functionary, Sinclair of Havera; and though perhaps not, strictly speaking, a Shuynd Bill, it is of that character, and deserves to be referred to as a further illustration of a judicial right established in this form peculiar to the Scandinavian north.

3. The Custom of Opgestry.

The law or custom of opgestry is defined by Hibbert as "empowering the possessors of udal lands, with the consent of their heirs, to dispose of their patrimony to any person who would undertake their support for life. Such disposers were then received into the house of their maintainer under the name of his *opgesters*; whence

¹ MS. Information for James Sinclair of Scalloway, in the action betwixt him and Andrew Bruce of Muness.

the law by which estates could be alienated from the udal-born for such a purpose was named the *custom of opgestery*." Hibbert annexes a deed of opgestery of date 1602 ; and a *Charter of Upgestrie*, dated 1581, is given in the Maconochie Collection, No. xiii. The deed in the present collection (No. VII., A.D. 1547) is earlier than either of these ; and though not exactly a deed of opgestery, it bears to be with consent of the mother of the granter, who is declared to be "upgaster" to the said granter, and it apparently is a conveyance of the land acquired from the upgaster. It thus distinctly, though only incidentally, exemplifies this peculiar feature of ancient northern law.

4. Ecclesiastical Deeds.

Two of these are presentations to a benefice in Shetland. The first (No. IX., A.D. 1567) is by Bishop Adam Bothwell, the last Roman Catholic prelate of the northern see ; the second (No. XIV., A.D. 16—) is by Earl Patrick Stewart. The living is the same—the parish of Nesting.

But perhaps the most interesting deed of this class is No. V. (anno 1539), *Tack by the Canons of the Cathedral Church of St Magnus*, Kirkwall, of certain lands, in the parish of Dunrossness and elsewhere in Shetland, held by them for their "service and uphalding of the morning mass said at Our Lady's altar within the Cathedral Kirk of Orkney." The tack is for nineteen years, in favour of Sir David Fallusdell, prebender of St Dutho's Kirk in Orkney.

The deed No. I. (anno 1491) executed by John Heroun, "Clerk of the diocese of St Andrews, notary public by imperial and royal authority," and dated on "the eleventh day of the month of September, the ninth Indiction, and in the eighth year of the pontificate of Pope Innocent the Eighth," illustrates the universality of the clerical notary in the middle and later ages even in these remote districts. Heroun, the notary, does not claim in his designation to act by *apostolical* authority, as did the Pope's notaries of the time. His designation "by imperial and royal authority" ("auctoritatibus imperiali et regali") seems to imply that his appointment had been by the Roman Emperor, confirmed by the King of Scots. By a Scottish statute a few years earlier than this (27th November 1469), it had

been provided that no notary made by the Emperor's authority should have faith in civil contracts unless examined by the official of the Bishop and approved by the King.¹ The notary on this occasion declares his royal authority, and also his relation to a diocese—that of St Andrews. The explanation is that the see of Orkney was placed under the metropolitan Bishop of St Andrews by a Bull of Pope Sixtus IV., dated at the Vatican, 17th August 1472; and the deed in question is dated at Kirkwall, 11th September 1491.

5. Peculiarities in the Phraseology of the Deeds.

As a rule, the deeds are of praiseworthy simplicity and brevity; also clear and definite, except perhaps in the description of the subjects, which is, as customary in early times, a little vague. But, apart from the radical distinction between udal and feudal instruments, there are peculiarities in the diction which mark a broad divergence in style between them and the Scottish deeds of the period. They are essentially Northern, expanded from the original models of the old Norse law and language previously prevailing in the islands. In some parts they transfer the identical Norse terms; elsewhere the Norse phraseology is translated, word for word, into the transitional Scots then coming into use. It must be kept in view that these deeds are of the sixteenth century. Those framed in Orkney and Shetland, a century later, show a further marked expansion towards contemporary Scottish forms in length and in phraseology, with notarial instruments, infeftments, and the like, which are so conspicuously absent in these simple native conveyances.

The following points may be specially referred to:—

(a) *The Dispositive Clause*.—The act of sale is usually expressed in the words “sellis analies and afhentis.” *Analies* is, I suppose, equivalent to *alienates* (common in Scottish deeds); *afhents* is

¹ Among the early Acts on this subject are the following: (1) That Notars in time coming be made by the King, and not by the Emperor; and that Notars so made be examined by their ordinaries the Bishops, and have their certificate (James III. Par. 5, cap. 31). (2) That the Bishops and Ordinaries examine all Notars and punish the insufficient, and send the sufficient to the King, to be made regal (James III. Par. 6, cap. 64).

pure Norse (Icelandic *afhenda*, to hand over; modern Danish, *afhænda*), as generally used in conveyances of the time written in the old language.

(*b*) *Consents*.—Reference has already been made to this, in speaking of the udal character of the documents. Frequently there is no consent; in other cases it is either the udal-born (next-of-kin) specified by name, or simply, “wyth consent and assent of my lauchfull ayres” (No. IV.)

(*c*) *The Consideration*.—An onerous consideration is usually implied, though never expressed in money. As a rule it is—“the full lands’ price, the first penny and the last, and all there between,” or in words almost precisely similar. This is an old Norse formula—“hin fyrsta peningh ok hin sedhista ok alla thcer imillom” (Deed of Sale, land in Unst, 1465)—translated into the current Scots.

(*d*) *Term of Entry*.—When this is expressed it is usually the modern terms of Whitsunday and Martinmas. In the deed by the canons of St Magnus (No. V.) it is “the feist of Alhallowmes.”

(*e*) *The Pertinents*.—These are generally described as in the deed No. VII. (1547)—“Howssis toftis tomellis eng ryt and royt, fre eische and entreis, with inpastor and owtpastor within dykis and without, under erd and aboune, fer and neyr, fra the heast staine in the hyll to the lawest in the eb,” &c. In the deed No. V. (1539) it is “Houssis biggingis boundis and feyldis pasture and lesuris with locheis stankis woddis cunyngis and cunyngaris fischings halkings and huntings,” &c.

This is also a mixture of Scottish and Norwegian legal phraseology. “From the highest stone,” &c., is, so far as I have seen, foreign to Scottish conveyancing. It is a translation from the common Norse phrase—“Fraa effste stenne ý fielle týll óste stenne ý fioren” (Deed of 1551, lands in the island of Unst); and similarly, in a deed relating to land in Shetland, dated at Bergen in Norway in 1544.

Tumellis is grass-ground or arable land, near a steading or village (*tun*); *Eng* is meadow; *Cunyngis* and *cunyngaris*, rabbits and rabbit warrens (*cuniculi et cunicularii*); *Woods*, borrowed apparently from Scottish law, seems singularly inappropriate in a country where

woods there are none, nor can have been for ages, though they certainly at one time did exist; *Hawkings* were famous in the islands until comparatively recently, the king's falconer having had a tax in the shape of *hawkhens*. The words "under erd and aboune" are suggestive of Scottish coal-workings, "as well under ground as above," or of other mineral wealth, of which Shetland knows little.

Along with the specification of pertinents there usually follows a supplementary clause—"With all royt eyne owthil and semynge" (No. III., A.D. 1536); in No. XI. (1581)—"all aing owthill ryt roith samaing and reversion," &c. These terms, peculiar to old titles in Orkney and Shetland, seem inexplicable to Scottish lawyers, but are easily explained by a reference to the old language. *Roith* is RÆDI, rule, control; *eyne* or *aing* is EIGN, possession; *owthil* is ODAL, absolute property; *semynge* is SÆMD, honour.

(f) *Warrantice*.—This is generally explicit, in some such words as the following: "Byndand and oblysand uss our airs executoris and assigneis present and for to cum never to molist nor trobill in gain calling of the sayd landis fra the sayd . . . nor his aires befor any jugye spirituall nor temporell, bot sall warrand and defend the sayd . . . in pesabill joising and broking of the sayd land be hym and his aires under the payne of all our guddis wyn or to be wyn" (No. VII., 1547). It is only in the Tack by the Canons of St Magnus Cathedral (No. V., 1539), in the Charter of Sale by Colbein Ormesone of Symbuster (No. XI., 1581), and in the feudal Charter by Earl Robert Stewart (No. XII., 1587), that the usual Scottish form "aganis all deidlie" (against all deadly) occurs.

(g) *Mode of Execution*.—Every document is *sealed*, though no seal now remains. Where the granter is not himself possessed of a seal, he procures "with greit instance" the seals of "worthy and discreit men," who are named. The witnesses are named and designed, but usually do not sign. This is consistent with the early practice everywhere.

It may be remarked generally, that while rude lawlessness is usually regarded as the prevailing characteristic of the age to which these deeds relate, they are themselves a refutation of the charge.

They show a careful adherence to the punctilios of law, in times of change and trouble, and indicate a civilised people regardful of all the amenities of life.

NO. I. A.D. 1491.

(Translation: the Original is in Latin.)

In the name of God, amen: By this present public instrument be it clearly known to all, that in the year of the Lord a thousand four hundred ninety-one, the eleventh day of the month of September, the ninth Indiction, and in the eighth year of the pontificate of pope Innocent the Eighth, in presence of me, notary public and witnesses under written, personally compeared a prudent and discreet man, David Sinclair, on account of the cordial affection which he bears towards Sonneta his wife, and on account of the good and faithful service by her performed and to be performed to the said David her husband, the foresaid David, not fallen in error, nor circumvented by fraud, but by his mere and free will, of free gift, gave and granted to the said Sonneta, all and whole that his tenement or land, with the pertinents, lying in the burgh of Kirkwall, in which tenement the said David and his wife with their family dwell, on the day of the making of these presents: Which David, forsooth, appointed and ordained the said Sonneta, to enjoy and possess the said land or tenement, fully and peacefully, without vexation or disturbance, of any of their heirs or of any other persons whatsoever, for all the time of the life of the said Sonneta; the said David, however, enjoying and possessing the said land or tenement with the pertinents, during the whole time of his life: And after the decease of the said David and his foresaid spouse, that the said land or tenement revert to the true, lawful, and nearest heirs of the said David and Sonneta, as the order of law requires: Upon which all and sundry the premises, the foresaid Sonneta requested from me, notary public underwritten, a public instrument to be made to her: These things were done in the dwelling-house of the said David and Sonneta, about the fourth hour, or thereby, after noon; there being present prudent and discreet men, namely, Gavin Gray, Andrew Gray, and Alexander Lestir, with many others, witnesses to the premises, called and asked. And I, John Heroun, clerk of the diocese of St Andrews, notary public by imperial and regal authority; whereas, I was present together with the beforenamed witnesses, whilst all and sundry the premises were so acted, said and done, as is premised, in form as above, and saw, knew, and heard these things to be so said

and done, and took note, and therefrom have made this present public instrument, faithfully written with my own hand, and have signed it with my sign and name used and wont, having been asked and required, in faith and testimony of the truth of all and sundry the premises. I approve and ratify those four words above written on the margin, namely, the eleventh day of the month of September.

JOHN HEROUN.

NO. II. A.D. 1525.

Be it kend till all men be thir present writ Me Thomas Olosone of Wrasettir now dwelland in Culliasetter grantis me sellit analeit and ofhentit and be this present writ sellis analeis and ofhents fra me my airis executors and assignais till ane worschipfull man maister Henry Phantoucht ersdene [Archdeacon] off Schetland his airis executoris or assignais with all clauses and warrandis that ony land in Orknay or Schetland may be sauld the quhilk landis followis heirefter In primis thre mark land and ane half mark land lyand in Stainess callit Brend-sowss twa mark land lyand [in] Ryeastay wthir half merk in Schonarwyk fowr mark ane half in Hoyswyk thre mark ane half mark in Culzasetter ane half mark in Brendastay ane mark in Litollogartht within the Harray three mark in Hamyrisland within the Harray fowr mark in Catfurd Item in Quhitness in Wadbusta sax marks in Hagusta twa mark and ane half mark land in Ologartht fowr mark and ane half mark land in How vii mark with rotht and owhell and ix mark land in Esthous for the quhilk landis I the said Thomas grantis [me] content and payit of the full landis price the first penny and the last geffyne to me in my wrgent necessite and be this present writ quitclaimyss and dischargis the said ersdene his airis executoris and assignais and sall warrand the said land to the said ersdene his airis executoris or assignais how lang I haiff ane penny in the wardll louss or fast present or for to cum for ane and all my airis executoris and assignais for now and ever more In witness of the quhilk thyng becauss I had no propir saill present I haiff procurit one and haiff gyffyne my full powir to Nicoll Hawcro of Ty[n]gwall to procure the signet of ane worschipfull man Henry Sincleir of Hawere [Havera] ye sailis of worschipfull men maister Henry Strang wicar of Dunrosness Maister Robert Hector vicar of Northmewene Syr Thomas Sandsond At Ty[n]gwall in Schetland the xxviii day of October the yeir of God ane m^e v^e xxv yeris befor thir witnesses Mawnyss Sinclar Johne Harcis Thomas Sandsond David Fresell Mawnyss Hew Nicoll Fydlair with oder witnesses.

Note.—There appear to have been five tags, of which only one remains, the signature on it being illegible. The deed is printed entire, because it is the earliest of the series written in Scots. The localities mentioned are almost in every case clearly distinguishable. The name “the Harray” is obviously the old word *Herad*, a district, at the time applied to some special district not now easy to identify, but probably Tingwall. A district in the island of Yell is still known as “the Herra.”

No. III. A.D. 1536.

Be it kend till all men be this present wryt me Eduerd Synclar of Stroyrn Fold of Zetland to hef sawld analeit and ofhentit and be this present wryt sellis analeis and ofhentis fra me and all my ayrs executors and assignais fyve merkis land viz. the merk lyand in Russater in Fetlair to ane discreit man Adam of Still and all his airs executors and assignais for ful landis price of the quhilk I grant me content and peit of the first d and the last and all thare betwix therfor the said v merk landis with howsis towrells tofts owt pestor in pestor fra the heast stane in the hil to the lawest in the eb with all royt eyne owthill and semyng and rytowss pertinentis at pertenis or lawchfulli may pertene to the said land to be haldin and hed fra me the said Fold and all my aris executors and assignais to be had joycit and browkyt be the said Adam and all his airs executors and assignais for now and ever In witness heiouroff I ye said Fold hes hwng my propir seil to this present chartor at Weisgart in Wnst the xxiiii day of Junii the yeir of God a m^e v^e xxxvi yers befoir thir witness Malcum Hawcro ersdene of Zetland Shir Tho Meson Schir Dave Forquhar Shir Alex^r Strang with wthiris diverss.

Note.—The granter of this deed is Edward Sinclair of Stroyrn [Stroholm in Whiteness?] Fold (*i.e.*, Fowde) of Shetland, apparently the same Edward Sinclair who was one of the leaders of the combined Orcadians and Shetlanders at the battle of Summerdale in Orkney, A.D. 1527. See the Respite granted to him and others by King James V. (Appendix to Barry’s ‘History of Orkney,’ p. 496).

No. IV. A.D. 1538.

Granter.—Peter Magnussone (no designation).

Grantee.—Gilbert Cant (no designation, but elsewhere termed of Brucht).

Consent.—"With consent and assent of my lauchfull ayres."

Subjects.—Four merks land, ten pennies the merk, "lyand in Stove in Skarrs [Skerries], in the parasone of Lunestying,"—"sauld in my gret myst urgent necessitie."

Consideration.—"The fyrst pennye and the last and all ther betwyx," for which he grants himself "thankfullye content and payt"; with "awin and owthale, wyth all profets commodities and dewities pertinend thereto."

Pertinents.—"Howses toftis asweyll . . . as . . . under the eyrd as abeyne, fra the heast in the hyll to the lawest in the eb."

Warrandice.—Merely the declaration that the said lands are to be "brukyt josyt and possessyt . . . with all clauses that ryt is all fraud and gyle secludyt, and away put fra me the said Petyr my aysr executors and assignais to the said Gylbert, &c., for now and ever mair." A cognate phrase to the last is in the old Norse deeds, "til everdelig eignar"—i.e., for an everlasting possession.

(The deed contains a further simultaneous sale to the said Gilbert Cant, by Olof, the fifth sone of Peter Magnussone the granter, of one half merk land in the same place, expressed in similar terms.)

Sealed.—With the seals of worthy and discreet men, Nycholl Thomassone, Lawman of Zetland, Magnus Bolt, and Thomas Ketyll.

Date.—16th July 1538.

Witnesses.—Sir George Duff, curat of Nestyng, Olof Mawgultsone, Bernd Thomassone, Magnus Olasone, Olay [in or of] Hamirslan, Mychell of Gletnis and Nycholl of Skellitstay, with uthris diverss.

NO. V. A.D. 1539.

Granters.—Schir Nycholl Halkraye, person of Orfer; Maister Adam Stewart person of Stronessaye; Maister Alexander Craik, person of Hoyer; Maister Alexander Scot, person of Westraye; Maister Petyr Houstoun, person of our Ladye Kirk of Sandaye; Maister Andro Hall person of the Crose Kyrk of Sandaye; described as "channonis of the Cathedrall Kyrk of Orknaye, under ane reverend fader in God Robert be the mercye of God bischop of Orknaye and Zetland."

Consent.—"With consent and assent of the said Reverend fader."

Nature of Deed.—Tack for 19 years.

In favour of.—"Our weil belovit brothir and freynd Schyr David Fallusdell, prebender of Sanct Duthockis Kyrk in Orknaye, his factoris, assignais and subtenentis."

Subjects.—"All and haill our lands lyand in Zetland within the

paroschenn of Dunrossnes or ony place of Zetland, quhilks pertenis to us the said Chanonis for our service and uphalding of the morne mess said at Our Ladye alter within the Cathedrell Kyrk of Orknaye wyth thair pertinens."

Entry.—"At the feist of Alhallowmes in the yeir of God 1539."

Pertinents.—"Houssis biggingis boundis and feyldis pasture and lesuris with locheis stankis woddis cunyngis and cunygarris fishings halkings and huntings with all uthir and syndrye fredomes comodeis profeits and rychtis pertenyng quhatsomevir alsweill not namit as namit."

Consideration.—"Payment of "fyve paks of waldmaill [wadmell] and twa barrellis of butter yerele on Alhallowevin to be deliverit to us our successoris or chaplanis upon the ayr (sea-beach) of Kyrkwall."

Power to Sublet.—"To ony tenentis or sub-tenentis of na hear degre nor himself."

Warrantice.—"To warrant acquiet and defend this present assedation; . . . aganis all dedele lelelye and trowly as law will but (without) fraude or gyle and oblisses us hereto and all our gudis moveabill and unmoveabill present and to cum in the sikurist forme of oblegacioun that can be devisit to fulfil or keip this present assedacioun as is above written."

Signed.—At Dumbarton, 6th August 1539, by the Bishop and the other granters.

Witnesses (named in the testing clause, but do not sign).—Alexander Craik parson of Hoy (who signs as one of the granters), John Maxwell, James Dalrympill and others not legible.

Note.—The Bishop "Robert" who is a party to this deed, was Robert Maxwell, who died in 1541, and was succeeded by the well-known Bishop Robert Reid.

NO. VI. A.D. 1546.

The tent day of December in the yeir of God ane thowsand fyve hundyr fourty and sax yers ane scuin haldin that daye at Howess be ane honorabill man Olave Sinclayr of Havoray heyd Fold of Zetland and thare syttand with hyme in jugymment ane wurschypefull man Nycoll Rayd Lauman of Zetland in that time with mony uthyris gentyll men and comonis that wes gadyrrit thar quhilkis comperytt har befor thame ane honorabill woman Margret Rayd the spowis of ane honorabill man Gilbert Cant and the said Margret Radis brother Thorrald Sudyerland

and thar befor the sadis fold and lawman in presence of all at wes thar the sayd Margrat and hyr brother Thorral of thar aune fre motyve [and] will ar apunctit concordyt agreyt of all land landmelis gudis geyr gold money [and] all maner of heryrstagye and ayrschipe that [she] and the sayd Thorrald had call or clayme to after his said moder Katrin Thorraldis docthoter of Broycht in maner forme and effec as efter folowis that is to say that the said Margret and hyr hysband Gilbert Cant hes gevine to the sayd Thorrald twenty pundis euswall mony of Scotland in gud redy gold for full compleyt payment and contentatione of all the sed Thorraldis rytis and als the sayd Margret sall suple the sayd Thorrald and help and fordyr hym to service and takkis quhen he desyris hyr within the romys of Zetland and without qhat sche may do off supplicatioun to freyndis or ony uthir plesor that schow may gudly do quhen sche is requiryt be the sayd Thorall tyll wryct and honor and als the sayd Margrettis hysband Gylbert Cant grantis hyme to stand fast and confermis all thir premissis maid be his sayd wyif to hyr sayd brother and als the said Gylbert of his awin will hes obligat hyme to gyf help and suple to the sayd Thorrald largely with his geyr and to be his gud frend in all plasis and . . . in his just defence apone thir forsayd premisses I the sayd Thorrald haldis me content with your cister and with your hysband forsayd and grantis me weyll content and payt of the foresaid sowme of xx punddis the fyrst penny and the last and all thar betwixt be my forsayd cister and [be the] handis of hyr hysband forsayd bindand and oblisand me in the stratest forme of obligatioun and undyr all payne . . . of all gudis or geyr quhatsumever God . . . me or my aris fra this day forwart amen to cum in . . . of thir premissis and now heyr in the meyne tyme purelie and simply dischargeis . . . of all landis and rychtis that ever I aryte or had tytill to efter my sayd modyr from me my saids airs executoris and assigneis into the hands of my sayd syster and hyr hysband ther executoris and assigneis for now and ever mayre In wytnes of the quhilk I the sayd Thorrald be causs I had na seyll of my awin I haf procuryt with greyt instance the seyllis of honorabill men forsayd Olave Sinclair of Haveray Nicoll Rayd lawmen Syr Nicoll Wyschert vicar . . . of Dunrosnes and Thomas Kettillis seyll for to be hang in this present letter befor thir wytnes Veyllm Logane Master Alexander Was Veillam . . . Jhone . . . and Thome . . . with utheris dyvers daye yeir tyme and playis abwine wrytin.

Note.—The above, as an arrangement formally ratified in presence of the Head Fold (otherwise Great Fowde) and of the Lawman of

Zetland, in court assembled, is printed in full, documents of this kind being much more rare than those relating to sales of land. It is analogous to the Shuynd Bill (the form of settling the succession of heirs). The term used to designate the court on this occasion is not very distinct, but seems to be *Scuin*, apparently an earlier form of *Shynd* or *Shuynd*, the etymology of which is not very clear. Of the persons named in the deed, Olave Sinclair of Haveray was a person of some note in his day as Great Fowde of Shetland. It was he who entertained the Earl of Bothwell in Shetland when fleeing before his enemies, after the fall of Queen Mary, in 1567. Nycoll Rayd, the lawman (otherwise Nicol Reid of Aith), was elected Lawman Generale of all Zetland at the Lawting Court held on the Tingholm of Tingwall, on 27th July 1532.

NO. VII. A.D. 1547.

Granter.—Iggabrocht Kotrinsdochter (Ingaborg Katherine's daughter) of Houll, daughter and lawful heir to her mother Katrine Androisdochter of Houyll.

Grantee.—Gylbert Kant of Brocht.

Consenters.—The granter's husband Maunis Kettill and her mother above-named, who is stated to be *Uppgaster* to them.

Subjects.—Two merk land in Howill, parish of Tingwall, in the Archdeanery (ersdennry) of Zetland.

Dated.—At St Lorence Kyrk of Burray, 11 March 1547.

Witnesses.—Sir Thome Muray, curat of Bressy, Lorence Sinclar of Norbuster, Maunis Moaut of Baquholy, Olay Neyllson of Quharf, Olay Stephenson and Huchon Stephenson, with many such others dyvers that day gathered to the presens.

NO. VIII. A.D. 1567.

Granter.—Alexander Virk (Work) of Isbuster.

Grantee.—Sir George Strang, Vicar of Nesting.

Consents.—None.

Subjects.—One merk land in Bystay (Busta?)—parish of Nesting, in "the cuntray of Zetland," with "ayng owdell and samyne."

Pertinents.—"Mowrs pettis millis mowtris . . . owtpastor and in-

pastor alsvill onder the erd as abwin fra ye heast stane in the hill to the lowest in the eb."

To be haldin and had.—"Fra me the said Alexander Virk, &c. to be brukit possessed and joisit be the said Sir George &c. fra now and ever without our gaincalling."

Witnesses.—Sir Andro Hill, Lawranss Sanclar, Burges of Kirkwall, Walter Hill, Patrick Wilson, Sir George . . . with others divers.

Notarial Attestation.—Illegible.

No. IX. A.D. 1567 (in Latin).

(*Translation.*)

Adam, by the Divine mercy, bishop of Orkney and Zetland, to the archdean of our church of Zetland, or any other vicar of the same, wheresoever constituted within our diocese of Zetland, with Divine benediction: Whereas the vicarage of Nesting and Quhilsay in Zetland, situated within our church of Zetland, now vacant by the death or decease of sometime Sir George Strang, last vicar and possessor of the same, belonging to our presentation in full right, we have provided and conferred, as by the tenor of these presents we do confer, to a discreet man, Alexander Kyncaid, conjunctly and severally, procurator, and in name of Alexander Spittell, son of Alexander Spittell of Blairlogy, absent as present, by placing our ring on the finger of the said Alexander Kyncaid, fully committing the cure, government, and administration of the same to the said Alexander: To you, therefore, and each of you, we give in charge, straitly enjoining you in virtue of holy obedience, and under the penalties prescribed by the laws, that ye forthwith induct and invest the said Alexander Spittell, or for him, his lawful procurator, into the real, actual, and corporal possession of the said vicarage of Nesting and Quhilsay respectively now vacant, according to the custom; firmly restraining gainsayers or rebels if, haply, there be any such, by the ordinary authority. In faith and testimony of which, all and sundry the premises, we have commanded and caused these our present letters of collation, or this present public instrument, written by a notary public, to be confirmed by the hanging to of our seal: Given under our subscription manual, at Edinburgh, the 20th day of May, in the year of the Lord a thousand five hundred sixty-seven, and of our inauguration the ninth year.

ADAM,

Bishop of Orkney and Zetland.

No. X. A.D. 1579.

This is a deed of some length, which may be briefly summarised. The granter is James Hay, Vicar of Unst, who, having lent to William Sinclair of Underhill (Underhoull) 500 "silver dolouris also callit zowpeindalis havand cours and passage within this realme for the tyme," receives in security from the said William Sinclair, with consent of Margaret Stewart his spouse, an annual rent of 120 dollars payable from his lands of Uyea Raningo (Ramnagoe in Unst?) Wedderstay, Bwistay (Wethersta and Busta) and Dirdilstay (?), at the terms of Whitsunday and Martinmas yearly. It is agreed that he shall discharge 100 dollars of the said annual rent on repayment by Sinclair of 400 dollars of the loan "togidder in ane sowm upon ane day betwix the son rising and to (down) ganging of the same in the Communion Isle within the parochie Kirk of the citie of Sanct Androis, I my aires or assignais being thairto truthfullie warnet upon the premonitoun of fourtie days warning preceding the resseit of the said sowm be publike reding of thir presentis opinlie in our paroch upon ane Sonday befor none in presens of the pepill convenit to precheing or prayers or . . . apprehendit befor ane notar and witnes." On payment of the further sum of 100 dollars, the remaining 20 dollars of the annual rent is to be discharged. It is provided that if Hay or his heirs or assignees should (which God forbid) absent themselves from the receiving of the said sums in repayment, Sinclair shall consign the same "in the handis and swir keeping of the dene of gild of the said court." The deed, termed "Letters of Reversion," is "subscrivit with my hand, my proper seale of armis is appendit," at St Andrews the (*blank*) day of (*blank*) 1579. The names of the witnesses have never been added. The signature is "James Hay with my hand." On the back of the deed there is added, under date the 29th day of July 1579, a notarial attestation of the repayment to Hay by Sinclair of the first portion of the loan, viz., 400 dollars, with the requisite discharge. Malcolm Sinclair is the notary, and William Lauder and John Dunbar the witnesses. This again is followed by an acknowledgment by Hay, seemingly in his own handwriting, in the usual legal phraseology, of the receipt of the balance of the loan—viz., 100 dollars (or zopindalis); for which he grants full discharge and renunciation for ever. Dated at Uyea the 18th day of July 1580. Witnesses, William Bruce, Andrew Smyth, Walter Hay and others divers.

In this deed, or succession of deeds, we seem to pass from the scant

records of the pre-Reformation period, and come face to face with persons who can be identified as mixed up with the more active current of events in later times. James Hay, the granter, designed as Vicar of Unst, is recognised as the first Protestant minister of the island and parish of Unst. According to the 'Fasti,'¹ he was the son of George Hay of Frenchness. At first reader, he was presented to the vicarage of Unst by James VI., 31st October 1574. William Sinclair, the borrower, was third son of Ollawe Sinclair of Brew in Dunrossness; and in terms of his father's will, dated 19th February 1570, inherited a third portion of the estates of the family, including Underhoull in Unst, and others. He was infeft in these properties under the Great Seal, 5th March 1578. His wife, Margaret Stewart, named in the deed, was daughter of John Stewart, Prior of Coldingham, a natural son of King James V., and consequently half-brother of Queen Mary. This lady, after Sinclair's death, was married to William Bruce, first of Symbister and Sumburgh, a witness to the present deed, who obtained through her the greater part of the properties in question.

William Lauder (Gulielmus Lauder), witness to the notarial certificate, though not designed, is presumably the minister of that name, who, according to the 'Fasti,' was presented to the parishes of Fetlar and North Yell in 1567, having a stipend of 80 merks. He had also in charge Sandwick in Unst, Baliasta, Hamnavoe, and Raffurdness in Yell; and was removed to Hamnavoe prior to 1585.

NO. XI. A.D. 1581.

Granter.—Colbein Ormesone of Symbuster.

Consenters.—John Colbeinsone, his eldest son, and Christen and Marion Colbeinsdotters, his daughters, his heirs apparent, and Agnes Mawnisdotter, his spouse, for her interest.

Grantee.—Ane honorabill man and my guid freind Hew Sinclair of Burt (Burgh).

Dispositive Clause.—Sellis analeis ofhentis and cleirle away putts fra me my airs, executoris, &c.

Subjects.—Four ures land in Litilholm in Quhalsay Sound, two ures land in Claitholm afore Sandwick, all 6 pennies the mark, within the isle of Quhalsay, within the Lordship and Shirefdome of Zetland, with all aing owithill ryt roith samaing and reversion; togidder with all other commoditeis utiliteis proffeittis easmentis, and pertinenceis thairto pertenant or be law may be funden till apperteine.

¹ Fasti Ecclesiæ Scoticanæ, part v. p. 441.

Date.—At Burt (Burgh), 20 November 1581.

Witnesses.—Peter Symson, Redare (Reader) at Nesting, Jhone Amphray of Astay, James Dickson, Robert Achessone, with others divers.

Signed, but apparently not written, by “P. Symson redare at Nesting.”

Note.—Three tags are appended (seals gone), with the names and designations of the “honorabill men” named above, to whom the seals belonged.

Colbein Ormesone, the granter of this deed, appears to have been the last udal proprietor of Symbuster. Notwithstanding an obligation in the deed to offer it to Sinclair of Burgh, it passed shortly after into the hands of William Bruce, whose descendants have possessed it for more than three centuries. Colbein is described in 1576 as “sumtyme Lawrychtman” of Whalsay.

NO. XII. A.D. 1587.

This deed is clearly and distinctly written, but imperfect. A small strip, apparently about an inch in breadth, has been cut off at some time along the whole right-hand side. The meaning is, however, sufficiently clear throughout.

Granter.—Robert, erle of Orknay.

Grantee.—Our sone naturall William Stewart.

Consideration.—(gratuitous) . . . and affection quhilk we bere.

Subjects.—Twa last of land of Ayt lyand within [lost].

Clause of Tenendas.—To be haldin of us and our airs in few.

Signed—At Faitlare (Fetlar), (signature on the lost strip).

Date.—18 July, j^m v^c four scoir. . . .

Witnesses.—David Skollow (Skollay) of Toftis, Walter Bruce, sheriff clerk, Edward Skollaw and . . .

Indorsed.—Erle Orknay his chartor to William Stewart his natural sone of the twa last land of Ayt. . . . 1587.

Note.—This is an unmistakably feudal charter, distinct in every way from those which have preceded.

NO. XIII. A.D. 1588.

This deed is so faint as to be almost illegible. The granter is “William Stewart, sone naturall,” as already mentioned, “to ane nobil

and potent lord Robert erle of Orknay lord of Zetland," who "sellis analies and" . . . to Hew Sinclair of Burgh his "twa last of land of Ayt" [Ayth]. Date 1588. Signed by "William Stewart." William Fermor, notarius publicus. G. Strang notarius et testis in premissis.

No. XIV. A.D. 16—.

This document is very faint, and almost illegible. Enough, however, can be made out to show the nature of it. It is a presentation by Earl Patrick Stewart of Mr Peter Symson, reader of Nesting, to the vicarage of that parish. The parish is stated to be vacant "in our hands" by the death of Mr Alexander Spittell, last possessor thereof. The date cannot be deciphered. Spittell is the vicar presented to this same parish by Bishop Bothwell—see Deed No. IX., 1567. Lord Robert Stewart had obtained from Bishop Bothwell, in 1568, the property and revenues of the Bishopric of Orkney in exchange for the temporalities of the Abbey of Holyrood, and his son and successor, Earl Patrick, was thus in full possession of the bishopric, and exercised his power of patronage accordingly. This patronage remained vested in the successive possessors of the Earldom of Orkney until its abolition by the recent Act.

Peter Symson has hitherto been regarded as the first known Protestant minister of the parish of Nesting, but the Deed No. IX. proves the existence of a predecessor, Alexander Spittell, presented in 1567. Symson, according to the 'Fasti Ecclesiæ Scoticanæ' (part v. p. 437), was reader at North Whalsay and Skerries from 1579 to 1589, to which Lunnasting was added from 1590 to 1595, and Nesting and Lunnasting only from 1596 to 1608. Admitted prior to 1609. Dr Scott, the author, adds, "Nothing more of him has been discovered."

2. REPORT, PRESERVED IN THE CHARTER-HOUSE OF THE CITY OF EDINBURGH, ON THE REVENUES OF THE PAROCHIAL BENEFICES OF SHETLAND IN THE BEGINNING OF THE SEVENTEENTH CENTURY.¹

A number of years since I obtained permission to examine the older records and miscellaneous papers of the city of Edinburgh. The object of my inquiry was to ascertain what light might be thrown upon the state of Orkney and Shetland by the papers

¹ Submitted to the Society of Antiquaries, 14th April 1884.

relating to the period during which the revenues of the Bishopric of Orkney were possessed by the city. In 1641 the Magistrates and Council obtained from the Crown a lease of these bishopric lands for the sum of £36,000 Scots, which was ratified by Parliament in 1644. They remained in possession of the lands and revenues for a period of eighteen years thereafter, having surrendered them to King Charles II. in 1662. During that period a variety of interesting deeds, reports, and miscellaneous papers connected with the islands accumulated in the city archives. A large number, probably the most of these, are still preserved, and among these there is no lack of interesting matter for those who are curious to investigate the state of affairs in the northern isles at that time—a troublous time, embracing the civil war and Cromwell's Protectorate.

The document which is the subject of this communication is a formal report by a resident clergyman, the Rev. James Pitcairn, on the state of the parish kirks and the church revenues of every parish in Shetland—the earliest local record of the kind in existence, so far as known.

The origin and subsequent development of parochial organisation in Scotland, especially the fiscal arrangements, are so obscure and beset with so much of conflicting data, at different times, that every contemporary writing of olden date and trustworthy character, bearing upon the subject, is of value; and no period is more perplexing, and stands more in need of elucidation, than that succeeding the distractions of the Reformation. Between lay impropiators, on the one hand, and Crown requirements on the other, a very small residue of the old patrimony of the Church was left for the maintenance of ordinances and the support of the parochial clergy. When a proposition was made, about half a century before the date of this document, that the ecclesiastical revenues of the country should be divided into three parts—two of these to be given to the ejected Roman Catholic clergy, and the third part to be divided between the Court and the Protestant ministry—Knox saw only in the scheme “*twa pairtis freely gevin to the devill, and the third mon be devyded betwix God and the devill.*” His indignation is not to be wondered at, for the outcome of the final adjustment was not only the miserably inadequate provision for the subsistence of

the clergy, but the actual striking off of more than a third of the churches of the land, reducing their number from 924 to 600.

There is ample evidence in the paper under notice that what was true of the state of matters on the Scottish mainland was equally true in the remote island parishes of the north—teinds made over to, or usurped by, laymen; in several cases neither manse nor glebe in existence; charges vacant, and kirks in ruins.

The paper is No. 9 of Bundle VI. inventoried on p. 738 of volume iii. of the Charter-House Books of the City. It bears the signature of the Rev. James Pitcairne, minister of the parish of Northmaven from 1579 to his death in 1612; and as it is not dated, it can only be assigned with certainty to the period embraced by his incumbency, though there is internal evidence sufficient, I think, to indicate its date as being early in the seventeenth century—not before 1607, but prior to the execution of Earl Patrick Stewart, which took place in 1615.

The handwriting is distinct upon the whole, though there are a few words illegible or doubtful. There are also some obscurities apart from the caligraphy, some of which are alluded to in my explanatory notes.

There is a separate report, forming part of the document, on "*The Rentell of the Kirk Landis—viz., Stowkis and Prebendareis.*" These kirk-lands seem to have been of very small extent. How acquired and how lost to the Church there is no evidence to show. They can scarcely have been the remanent portions of the bishopric estate, which originally lay intermixed with the earldom and private lands in every parish, but which by later excambion and concentration to a large extent disappeared, and has now no existence as such in Shetland. It is still, however, a separate estate in Orkney, administered by a chamberlain for the Crown, as coming in place of the Bishops of Orkney and Shetland.

The *Channonis landis*—i.e., the property formerly belonging to the Canons of St Magnus Cathedral at Kirkwall—appear, from the deed No. V., page 143, to have been let by them, in the year 1539, on a nineteen years' tack, to their "weil belovit brothir and freynd Schyr (Sir) David Fallusdell, prebender of Sanct Duthockis Kyrk in Orknaye." In that deed the subjects are briefly

described as "All and haill our landis lyand in Zetland within the paroschenn of Dunrossnes or ony place of Zetland quhilkis pertenis to us the said Channonis for our service and uphalding of the morne mess said at Our Ladye altar within the Cathedral Kyrk of Orknaye, wyth thair pertinens." It is scarcely necessary to add that these canons' lands, like the canons themselves, and their morning mass at Our Lady's altar in St Magnus Church, have, as such, entirely disappeared from view, and now form no part of the inheritance of the Church.

For a lengthened period after the political tie with Norway was severed the connection in Shetland with the mother Church of Norway did not altogether cease. At the same time the property in the islands belonging to the Norwegian Church did not, as a matter of course, pass over to the Scottish Church catholic after the impignoration of Orkney and Shetland to Scotland—at all events did not descend to the Reformed Church which succeeded it. The reference here is not to the public ecclesiastical revenues, but to private possessions of Churchmen, as such, or of Church bodies. For instance, the Monastery of St Michael's in Bergen (*Munkalivs Cloister*) possessed a considerable landed estate in Shetland, as specified in the *Brevebog*, or Chartulary, of the monastery. How this estate passed into other hands is not at present known. The Provost of the *Dom Kirk*, or Cathedral, of Bergen had also various lands in the islands. These Norwegian church lands are not included in the present account of the church properties, and were clearly therefore not reckoned part of the property of the Reformed Church of Scotland at the time. Indeed a portion of these lands, $4\frac{1}{2}$ marks lying runrig with the manor lands of Sumburgh, was appropriated for secular purposes—*i.e.*, for his own purposes—by Earl Patrick Stewart, and disposed by him in 1592, and again in 1605; though suspicions of a dubious title led to a confirmatory charter being afterwards obtained from the King of Denmark, as coming in place of the ancient Church of Norway, under the comparatively recent date of 28th August 1662, as has already been described.

There is one feature of great interest ecclesiologically in the old paper now under consideration. It gives, we may presume with

tolerable accuracy, the names of the saints to whom most of the parish churches in Shetland were dedicated. In Protestant times those ancient saints naturally enough fell into disfavour, and gradually the remembrance even of their names perished from the spots which were intended to commemorate them. Consequently the names now given are in most cases new discoveries; and I have attempted, on the basis of this, and of information derived from other quarters, to reconstruct a list of various churches and chapels in the islands, with their dedications so far as known, to the number of no less than thirty. The list is of course incomplete, and may probably in some instances be inaccurate, but it will serve as a foundation for further inquiries. An examination of the list will show that many churches and chapels in use in pre-Reformation times are now not only disused, but are either in ruins or have wholly disappeared.

It does not appear how Pitcairne's report, assuming its date to be from 1607 to 1615, came into the possession of the city of Edinburgh, seeing that their entry to the bishopric was not until 1641. It has not been regarded by the city authorities as of much value, for it is put away in a bundle inventoried thus: "*Item*, several papers relating to the state of the Kirks in Orkney and Zetland, thought to be not very material, and therefore not particularly inventoried."

I had no leisure to transcribe more than this single paper, and I must content myself with printing it *verbatim*, adding merely a few further explanatory notes.

THE JUST RENTELIS OF THE BENEFICES CALLIT THE VICARAGES
W^T THE NUMBER OF THE KIRKIS PERTENING THAIRTO AS
THAY HAVE BEINE OF OLD AND AS THEY ARE NOW CALLIT
IN PREBENTIS.

St Matthew, St Magnus, St Colme, the Kirk off the Fair yle.—In primis the Vicarage of Dunrosnes in corne teind nyne peise ilk peise calculatit to twenty pundis the bowteind¹ communibus annis foure

¹ *Borv teind*—teind of cattle—milk cows. The word (Icelandic *bú*) still lingers in the Scottish term *steel-bow*.

barrell butter the bot¹ teind fyfe gudlingis w^t halff lamb halff woll the other halff of lamb and woll usurpit and taken up be my Lord Orknay sine titulo bothe heir and frome the rest of the Vicarages within the cuntrie notwithstanding that the haill woll and lamb pertains to the Vicar properlie. The Vicarage hes thrie Kirkis in the maine of the cuntrie of Zetland and the fourt in the Fairyle. The Vicarage is set be Lawrence Sinclar Vicar and titular thairof to Malcome Sinclar of Quendell for sax scoir pundis. It hes ane manse and glebe.

Brassa and Burray.—Fyve pece of corne teind two barrell butter and ane half in bow teind thretie guidlingis w^t halff woll and halff lamb the uthir halff usurpit be my Lord as said is. Thair is bot twa Kirkis of olde and remainis as yet ane kirk in rek . . . and hes bot sax mark land for the gleb lyand in Brassa and this Vicarage is set be umquhil Alex Kincaid to my Lord of Orknay for auchtein poundis and wantis ane minister this fyftein yeris.²

Tingwell, Weisdail.—The Archdeanrie is twentie sevin peise corne teind the bow teind fyve barrell butter the bot teind thre scoir guidlingis w^t haill lamb and woll. *Item* thair pertenis to the Archdeanerie twentye last of land w^t twell mark for the glebe and the samyne is set in long takis and few to the laird of Esselmont be Sir James Hay. This benefice hes twa kirkis.

Sand, Twatt, the twa ordinar kirkis and thair is uthir twa quhil concuris to thir twa callit *Gruting and Aith.*—The Vicarage of Aithsting and Sandsting hes fyve pece corne teind twa barrell butter and halff in botis teind threttie guidlingis w^t halff woll half lamb it hes twa kirkis it wants manss and glebe.

Sandness, Wallis, Papa, Fulla.—The Vicarage of Waais sax pece and half pece corne teind bow teind thre barrell butter botis teind fourtie guidlingis w^t haill woll and lamb it hes ane manss and glebe and is set in tak for twentie angelis yeirlie to Malcome Sinclar be umquhil Alex^r Kincaid.

Olafirthe, Laxo.—Delting hes fyve pece corne teind twa barrell halff barrell butter in bowteind threttie guidlingis in bot teind w^t half woll and lamb it hes na manss nor glebe hes twa kirkis. This benefice evil spilt be ane forcit pensiwne taine from it be my Lord of Orknay quha also hes detenit twa barrell buttir assynit to the minister out of the Bishopis thridis this sevin year bygain.

St Ola, St Magnus, St Gregoreus.—Northmavin sax pece corne teind

¹ *Bot.* (*i.e.*, boat) *teind*.

² According to the 'Fasti,' William Umphray was minister of this parish from 1581 to 1636.

bowteind thre barrell buttir bot teind fourtie guidlingis w^t halff woll and lamb it hes nather manss nor glebe it had thrie kirkis of old and now contracit to twa.

St Jhon, St Ola, Hamnavoe Kirk St Magnus.—The Vicarage of Zell is nyne peis corne teind and ane halff estimat to xxxvi li. the pease w^t fyve barrell butter in bowteind four scoir ten guidlingis bot teind. The manss and glebe off this vicarage is unjustlie possesit be my Lord Orkney it hes thre kirkis and is set in takis to Williame Bannatyne be Mr James Lader quha hes maid Sir Jhone Arnot assignay thairto.

Lady Kirk at Harildswik, St Jhone in Balyesta, St Ola at Wick, all thrie in Unst.—The Vicarage of Unste is fourtein peice corne teind sax barrell buttir bowteind four scoir guidlingis in bot teind w^t manss and glebe and is set in long takis to Arthur Sinclair be umquhil Sir James Hay.

Crocekirk.—Fetler hes twa pece corne teind and ane halff peise twa barrell butter bowteind twentie guidlingis bot teind w^t haill woll and lamb it hes ane kirk w^t manss and glebe set to Wm. Bannatyne be Mr James Lader quhairinto Sir Jhone is maid assignay and yet presentlie possessit be Patrick Hoge *bona fide* beand presentit and collationat thairto.

Nesting Kirk callit St Ola, Lunnasting callit St Margaret, Quhailsa Kirk Croce.—Nesting, Quhalsa and Lunnasting is sevin pece corne teind four barrell butter bowteind fourtie guidlingis bot teind w^t halff woll half lamb w^t manss and glebe it hes thre kirkis and is set in long tak to the guidman of burghe be Mr Alexander Spittell.

THE RENTILL OF THE KIRK LANDIS—VIZ., STOWKIS
AND PREBENDAREIS.

Item, the Stowk callit the Croce land set in few to Malcome Sinclar be his majestie for payment off twenty pundis few mailis and disponit to James Sinclar apperand off Quendell for his lyfetime.

Item, the Channonis landis set in few be Sir James Hay to Hew Sinclar off Burghe and payis yeirlie to his Majestie twenty pundis threttein shillingis foure pennies quhilk wes assignat to Thomas Swintowne in his stipeind be the Lordis modefearis or checker [the Exchequer].

Item, aine small Stowk in Northmavin callit St Michaelis Stowk it payis in few maill ten pundis quhilk lyis vaicand be deceis off Sr James Hay.

Item, ane uthir lytell Stowk callit Osta set in few to Jhone Umfra

and payis ten pondis few maill quhilk wes disponit to Andro Umfra younger for his lyfetime.

Nota, that everie guidling is twenty foure shillingis Scottis.

Item, everie last land is auchtein mark.

Item, everie mark extendis to xxvi s. viii d.

J. PITCAIRNE, *Minister at Northmaving.*

NOTES.

I. THE PARISHES.

Dunrossness.—Four churches are enumerated here, corresponding to the three civil parishes of Dunrossness, Sandwick, and Cunningsburgh, and the Fair Isle 25 miles distant, all which have been combined as one *ministry* during almost the whole period since the Reformation. Of these churches, that of Dunrossness, situated near the sea-shore at Quendale, existed until the year 1791, when a new church was built at a considerable distance, and the stones were used for the erection of a neighbouring manor-house and offices; the church at Sandwick, rebuilt some time since, became a preaching station of the minister of Dunrossness from the year 1593, when the parish ceased to be a separate charge, until 1833, when it was made *quoad sacra*, with a resident minister; the church at Cunningsburgh has been a ruin for two centuries or more, and has latterly disappeared entirely.

The three churches of the vicarage of Dunrossness (apart from that of the Fair Isle) are noted in Pitcairne's report merely by their dedication names, *St Matthew*, *St Magnus*, and *St Colme*. Assuming that these are to be read in the same order in which the three parishes are usually quoted, it would follow that the churches would be referred to the respective parishes, thus—

<i>Parishes,</i>	Dunrossness,	Sandwick,	Cunningsburgh.
<i>Churches,</i>	St Matthew,	St Magnus,	St Colme.

It is to be regretted that this is not a matter of absolute certainty, for all knowledge of these dedications has long since vanished, and anything that is known tends only to further uncertainty. The pre-Reformation church of Dunrossness proper, at Quendale, was known in later times as *Croce Kirk* (or *Cross Kirk*), either from its cruciform construction, or from its having been dedicated to the Holy Cross. And the church at Cunningsburgh is noted in Timothy Pont's map, early in the seventeenth century (published by Blaeu of Amsterdam), as St Paul's. Of the church at Sandwick there is, so far as I am

aware, no record, and no tradition of the dedication to St Magnus. While, therefore, Pitcairne's account of these dedications is of value, it cannot be implicitly relied upon, without such corroboration as may be disclosed hereafter.

A portion of the ecclesiastical revenue is said to be usurped by "my Lord Orkney." If it could be decided whether this refers to Lord Robert, first of the Stewart Earls of Orkney, or to his successor, Earl Patrick, the uncertainty as to the date of the document would be narrowed. The former died in 1592, and the latter was executed in 1615. Other names occurring in the paper belong to the same period, but none of the references are sufficiently pointed to fix the date within a few years. The "usurpations" by Lord Orkney are too much matter of history to require to be commented on.

Laurence Sinclair, the then vicar of Dunrossness, is not recorded in the 'Fasti Ecclesiæ Scoticanæ' as minister of the parish, but only as reader there from 1571 to 1580, and again at Sandwick in 1608. Malcolm Sinclair of Quendale, apparently a brother, to whom the vicarage was "set," was a landowner in Shetland in the end of the sixteenth and beginning of the seventeenth century. It was he who received at Quendale the men of the Spanish Armada, wrecked at the Fair Isle in 1588.

In 1571 John Kingsone was appointed minister of this parish, including Sandwick and Cunningsburgh. His stipend is stated to have been xl merks (£2, 16s. 8d.) In 1574 he appears to have had also Bressay and Burray in charge, with lxxx li. (£6, 13s. 4d.) of stipend.

In the 'Buik of Assignatiounis of the Ministeris and Reidaris Stipendis' for the year 1576 the following entries occur:—

Dunrosnes, Sandwick, Cunisburgh.—Malcolm Sinclair, his stipend, the haill vicarage of Dunrosnes quhairunto he is newlie providit, extending to 80 li. he payand the reidare at thir Kirkis.

Croce Kirk, Fair Isle.—Laurence Sinclair reidare at thir Kirkis his stipend xx li. to be paid be the new providit vicar.

To the Commissionaire of Zetland is assigned, *inter alia*, "the thrid of the Croce Stouke of Dunrosnes vj li. xiijs. iiij d, and furth of the bishopis umbothis of Zetland the rest; and for payment thereof vj barrellis."

In these different quotations we have material to enable us to attempt to determine what the Church revenue of the parish may have been three centuries ago. But the confusion of money payments and value of payments in kind still leaves it in much uncertainty.

Bressay and Burra.—Alexander Kincaid, referred to as having “set” the vicarage to the Earl of Orkney, is not recorded in the ‘Fasti.’ He was appointed mandatory by Bishop Adam Bothwell, for the induction of Alexander Spittell to the vicarage of Nesting, in the year 1567. The united parish of Bressay, Burra, and Quarf is a very extensive one, and its being without a minister for fifteen years shows the deplorable state of confusion into which matters ecclesiastical had drifted.

Tingwall.—Glebe lands said to be set to the “Laird of Esselmont” by Sir James Hay. Hay was vicar of Unst from 1574 till 1591. He was active and influential, and acquired much property. Hierome Chene, said to have been “of the family of Esselmonth, Aberdeenshire,” was, according to the ‘Fasti Ecclesiæ Scoticanæ,’ appointed minister of Tingwall in 1567, and was succeeded in that charge by his son in 1572. The Laird of Esselmont here alluded to was probably a son or near connection of this Sir Hierome, the Archdeacon; and the territorial designation of Esselmont was claimed in Shetland by a family of the name for a lengthened period after this date.

The Church of Tingwall was dedicated to *St Magnus*; that of Weisdale to *Our Lady*. These dedications are not mentioned in the paper.

Northmaven.—There is here again a difficulty about the dedications. Three churches are enumerated, dedicated respectively to St Olaf, St Magnus, and St Gregory. The remembrance of all these seems to have passed away; and the parish church at Hillswick has, in later times, been referred to as dedicated to St Colme (or Columba). Sibbald seems to agree with this paper in calling it *St Olla's*.

Yell.—William Bannatyne, named as tacksman of the vicarage, was probably William Bannatyne of Gairsay, Orkney, who was active in the north in the beginning of the seventeenth century. Among other recorded references to him, we find him Chancellor of the Assize at Kirkwall at the trial, in 1616, of Elspeth Reoch for witchcraft, when the unfortunate panel was sentenced to be “wirryet at ane staik quhill she be deid and thereafter to be burnt in assis.” James Lauder, from whom Bannatyne acquired the tack, was removed from Fetlar to the parish of Mid and South Yell in 1596. He was succeeded in that charge in 1599 by Andrew Edmonstoun. Sir John Arnot, assignee of the tack, was a well-known citizen of Edinburgh, and a principal creditor of Earl Patrick Stewart.

Fetlar.—Patrick Hog, named as minister of Cross Kirk, is stated in the ‘Fasti’ to have been a son of Mr Archibald Hog, minister of Durris; to have been presented to Fetlar in the year 1607, and to

have died between 12th January 1622 and 1st September 1624. This would seem to establish the date of the documents as subsequent to 1607.

Nesting, Whalsay, and Lunnasting.—The “guidman of Burghe,” named as tacksman here, was Sinclair of Burgh, an extensive landholder in Shetland at the time, but whose family has long been extinct. Alexander Spittell, who granted the tack to Sinclair, was presented to the vicarage of Nesting and Whalsay, as successor to Sir George Strang, in 1567.

II. THE KIRK-LANDS.

Some explanations as to these have been given in the introduction to this section.

III. NATURE OF THE ECCLESIASTICAL REVENUES OF THE SHETLAND PARISHES.

Throughout Pitcairne's report the parochial revenues enumerated are in every instance termed “Vicarage.” It is also the case that in documents of the same period, and of earlier date, the parochial clergymen in Shetland are, for the most part, if not invariably, termed *vicars*, while several of those of Orkney appear as *personis*, or parsons. From this it might be inferred either that the whole parishes of Shetland were *vicarages* pure and simple, or that the right and dues of parsonage and vicarage had become intermixed, or merged together. There is evidence, at the same time, that the distinction between the two was not wholly lost sight of even at a much later date; for Gifford, writing in 1736, speaks of the minister of Sandsting as being “vicar of the parish,” and having “for stipend half of the corn tythes, and the whole vicarage tythes, amounting to above 700 merks Scots per annum, with a glebe and manse.” The same statement—of the minister having half the corn tithes and the whole vicarage tithes—is repeated in the case of most of the other parishes. The corn tithes (of which, in these cases, only one-half reached the minister) were in reality the *parsonage* tithes (*decimæ rectoriæ* or *decimæ garbales*) which belonged to the parson or rector, and which, according to Erskine, comprehended, by the usage of Scotland, only the tithes of corns, as of wheat, barley, oats, peas, &c.¹ The *lesser teinds* belonged to the vicar. Holders of benefices in Shetland would not naturally obtain appointments as members of the Cathedral chapter of St Magnus at Kirkwall, and hence there would

¹ Institutes of the Law of Scotland, title x.

be little occasion for *rectors* with substitutes (or *vicars*) for the performance of clerical duties in those remote parishes. Besides, the revenues provided, we may be well assured, would be barely sufficient for the maintenance of a single clergyman, leaving little or nothing to be shared with another of superior rank.¹ And yet, in some way or other, we see that one-half of the corn tithes, which properly belonged to the parson, had disappeared from the vicar's revenue, while not finding its way either to parson or bishop,—another indication of the usurpation or alienation of Church revenues, which became a great abuse everywhere, but especially in Scotland before and after the Reformation.

There is another element of uncertainty that must be taken account of in attempting to estimate the position of Shetland parishes at this time. While the distinctions of parsonage and vicarage were apparently everywhere recognised in civil and ecclesiastical law, we must not, in the consideration of these matters, be guided implicitly by the usage of Scotland. It must be remembered that at the time we are speaking of the islands had been only a century and a half under Scottish rule, and their ecclesiastical and civil arrangements would probably require to be viewed in connection with the system formerly prevailing in Norway, if we had the means of arriving at any very definite understanding on that subject.

As, however, it would seem to be safe to conclude that what are here termed the “vicarage” dues embraced all that was exacted for the maintenance of the officiating clergymen, we have in the document before us a complete view of the ecclesiastical revenues of the whole of Shetland in the period succeeding the Reformation.

Frequently the vicarages are stated to be “set,” sometimes in “long tak,” to laymen. In many cases this might have been a matter of convenience, for a neighbouring landowner could more easily take up the tithes, along with his own rent paid in kind, than these could be collected by a clergyman. But there is room for suspicion that in many cases the tithes were made over by the incumbent mainly for an immediate payment, to suit his own interest, and often for a period beyond his own life, thereby impoverishing his successor, and causing the “*dilapidation*” of tithes, as it was termed. It was probably in

¹ The uniting of *parsonage* and *vicarage* all over Scotland was authoritatively aimed at in 1581, when it was ordained, “Quhair the parsonage and vicarage pension at any Kirk are now severall benefices, to be all unitit and annexit in ane, for the better sustaining of the minister there.” See proceedings at the Glasgow Assembly of 1581.

this way that "lay vicars" came in, and, along with them, confusion inextricable, which still taxes the ingenuity of the Teind Court to reconcile and adjust.¹

IV. LIST OF PRE-REFORMATION CHURCHES AND CHAPELS IN SHETLAND TO WHICH DEDICATIONS HAVE BEEN ASSIGNED.

(The authorities are given. The present document, Pitcairne's report, is indicated by P.)

DUNROSSNESS.	<i>Cross Kirk</i> , at Quendale (St Matthew ?—P.) <i>St Ninian's</i> (St Ninian's Isle). <i>St Columba's</i> , at Clumlie. ²
SANDWICK. ³	<i>St Magnus</i> ? (P.)
CUNNINGSBURGH.	<i>St Colme</i> ? (P. According to Blaeu's map— St Paul's.)
BRESSAY.	<i>St Olla</i> , at Gunilsta (Sir Robert Sibbald). <i>St Mary</i> , at Culbinsbrough (do.) <i>St John</i> , at Kirkabister (do.)
BURRAY.	<i>St Lawrence</i> , at Papil, a towered church (Sibbald).
TINGWALL.	<i>St Magnus</i> .

¹ By Act of 1617 no prelate was allowed to let any part of his patrimony for a longer term than nineteen years, nor any churchman under a prelate for a longer term than their own lives and five years after, under the pains of deprivation and infamy (Erskine's Institutes, title x. § 8).

² I venture to make this addition to the dedicated sites in Dunrossness parish—*St Columba's* at Clumlie. At this place an ancient church site is pointed out, named *Kurkifield*. The ground around it has the appearance of having been a burial-place, but only one stone, a large flat grave slab, remained. It has long since been removed from the spot. There is also a Clumlie in the parish of Sandwick in Orkney. Here, as at Clumlie in Shetland, there is a loch in front; and there is a Loch-Choluim-Cille, or Columba's Loch, in the Isle of Skye. In a map of Orkney, perhaps the earliest in existence, given in a Dutch edition of Camden's 'Britannia,' published at Amsterdam in 1617, the parish church of Sandwick, now situated near to Clumlie, and probably originally at that place, is designated *St Columban*—a dedication, so far as I am aware, of which no hint or tradition seems to be preserved, unless it be in the name of Clumlie itself.

³ Two other chapels can be traced in this parish, though no remnant of either remains—(1) at Ireland (*Eyrrland*), a towered church, and (2) at Levenwick. At the latter place there is a very ancient burying-place, still used, and still termed a "kirkyard." May not this latter chapel, of which no record or tradition remains, have been dedicated to the Celtic *St Leven*, a favourite saint in Cornwall, and the bay and district named therefrom—Levenwick?

WHITENESS.	<i>St Ola</i> ('New Statistical Account,' p. 69).
WEISDALE.	<i>Our Lady</i> .
SANDSTING.	<i>St Mary</i> (Tradition—'N. S. A.,' p. 110).
SANDNESS.	<i>St Margaret</i> .
WALLS.	<i>St Paul</i> (Sibbald).
DELTING.	<i>St Paul</i> , at Scatsta (Sibbald).
	<i>St Olla</i> , at Olnafirth (do.)
	<i>St Magnus</i> (do.)
NORTHMAVEN.	<i>St Ola</i> , at Hilswick (P., Sibbald, Blaeu).
	<i>St Magnus</i> (P., Sibbald).
	<i>St Gregorius</i> (P., Blaeu).
YELL.	<i>St John</i> (P.)
	<i>St Ola</i> (P.)
	<i>St Magnus</i> (P.)
UNST. ¹	<i>Our Lady</i> , at Haroldswick (P.)
	<i>St John</i> , at Baliasta (P., at Norwick, Sibbald).
	<i>St Ola</i> , at Wick (P.)
	<i>St Sineva</i> , at Baltasound (Sibbald).
FETLAR.	<i>Cross Kirk</i> (P.)
NESTING.	<i>St Ola</i> (P.)
LUNNASTING.	<i>St Margaret</i> (P.)
WHALSAY.	<i>Cross Kirk</i> (P.)

In the above list the predominance of northern saints, in the honour of dedication, is very noticeable—St Lawrence, St Magnus, St Ola, St Sineva. At the same time eminently Celtic saints, such as Columba and St Ninian, are not neglected; and this is suggestive of dedications to them being survivals from the Pictish Christianity which preceded the Scandinavian settlement of the islands.

V. THE REV. JAMES PITCAIRNE.

The author of the report upon which this communication is based deserves to have a few words devoted to his memory in closing. The following account of him is given by Dr Hew Scott in the 'Fasti Ecclesiæ Scoticanæ' (part v. p. 439):—

"James Pitcairne was incorporated as student of St Mary's College, St Andrews, in 1575; became Reader, and was presented to the Vicarage of (Northmaven) by James VI., 10th June and 19th November 1578, admitted in 1579; he was nominated Constant Moderator of the

¹ A church in Unst, named by Sibbald *Cross Kirk*, is probably one of those named above.

Presbytery by the General Assembly, 1606 ; and they were charged by the Privy Council, 17th January succeeding, to receive him as such, within twenty-four hours after notice, under pain of rebellion. He was put in bond by Patrick, Earl of Orkney, until he composed an inscription, which is still readable, over the door of Scalloway Castle ; and died in March 1612, leaving Ursula Sinclair relict, and four daughters, Janet, Martha, Christian, and Agnes."

The worthy minister must have been sufficiently prudent, from a worldly point of view, to have amassed such a highly respectable competency from the modest proceeds of his vicarage as appears in the inventory of his estate, printed in the 'Fasti.' His dealing with Earl Patrick Stewart, in the matter of the inscription over the entrance of Scalloway Castle (built anno 1600-1601) is thus related by Brand, writing exactly a century later :—

"After this, one Mr Pitcairne, minister of Northmevan, said to be a godly and zealous man, coming to pay his respects to the Earl, the Earl desired him to compose a verse, which he might put upon the frontispiece of his house ; from this the minister took occasion to lay before the Earl his great sin of oppression, upon which the Earl's anger was incensed, and in his rage he threatened him with imprisonment. However, the Earl afterwards coming to some composure of spirit, Mr Pitcairne said unto him—'Well, if you will have a verse, I shall give you one from express words of Holy Scripture, *Luke 6*,' which verse the Earl being pleased with, caused inscribe it on the lintle above the gate, with *Luke 6* added to the verse, the minister thereby insinuating that this house could not stand long, having such a sandy foundation as oppression. As indeed neither did it, for shortly after, the Earl being beheaded, the house was not taken care of, and is now become ruinous." —Description of Orkney, Zetland, &c., p. 90.

The inscription is given thus—"Cujus fundamen saxum est, domus illa manebit : Labilis e contra, si sit arena, perit" : translated—That House whose foundation is on a rock shall stand ; but if on the sand, it shall fall.

3. UNPUBLISHED RENTALS OF THE ANCIENT LORDSHIP OF SHETLAND AND OF THE EARLDOM AND BISHOPRIC OF ORKNEY.¹

The Crown lands of Orkney and Shetland, known, since the islands became connected with Scotland, as the *Earldom* estate of Orkney and the *Lordship* of Shetland, together with the duties

¹ Contributed to the Society of Antiquaries of Scotland, 13th April 1885.

exigible in addition by the Crown and its donatories, are simply the continuation, with ever varying increment, of the heritable domain and traditional exactions of the old Scandinavian Earls of Orkney in both groups of islands. These lands and duties, originally held under the King of Norway, and latterly of the King of Denmark and Norway united, gradually assumed the character of absolute property in the person of the Scottish sovereign; and successive donatories, though only holding under redeemable charters from the Crown, made free with them, by sale and excambion, as if they had been their own.

The bishopric estates and revenues in Orkney and Shetland descended, in the same way, to the Roman Catholic and Reformed Bishops of the Scottish Church from the Scandinavian prelates who preceded them, and were equally tampered with by the successive holders.

Regarding the origination and growth of these two estates in the islands, the absence of authentic information leaves us very much to conjecture. In the case of the Earldom, King Harold of the Fairhair, according to the Saga of Olaf Trygvissón, simply "gave" the whole islands to Rognvald, upon whom the title of Earl was first conferred, about the year 872. This cannot, however, be supposed to imply the creation of a landed estate in the person of the Earl or the negation of private property in others, for the odal landholders appear to have had their inalienable rights from the beginning. The charters, in much later times, to the Stewart Earls were not less comprehensive in their terms than the gift of King Harold. That in favour of Lord Robert Stewart, dated 26th May 1564, conveyed to him, in the ordinary legal phraseology of the day, "all and whole the lands of Orkney and Zetland, with all and sundry the isles belonging and pertaining thereto, with all and each of the castles, towers, fortalices, woods, mills, multures, fishings," &c. Subsequent Crown charters were still more full and precise, but interference with private property was none the less arbitrary and illegal. The right to collect the *skat* from the whole islands, and to acquire a private domain by conquest or confiscation, was doubtless the privilege of the Earls from the beginning. It was thus that at Orphir, Birsay, Kirkwall, Sumburgh, Scalloway, and

elsewhere, earldom properties were formed, and residences erected. The fortunes of war, private feuds, poverty of private owners, fines, escheat, *grippings*, swelled the estate of the Earls to the large dimensions it had attained at the time of the impignoration to Scotland (1468); and its extent was still farther largely increased by the rapacity of the Stewart Earls and other grantees in the course of the next and following centuries.

When the Earldom estates and revenues were acquired by the Crown from Earl William St Clair in 1471, it was enacted (20th February of that year) that these should "nocht be gevin away in time to cum to na persain or persainis excep alenarily to ane of the Kingis sonnys of lauchful bed." It is well known to every student of northern history how in practice this engagement was falsified; how from age to age those Crown lands and revenues were gifted to illegitimate sons or court favourites, until in 1766 the whole lands and revenues of the Earldom and Lordship were acquired from the Earl of Morton for £63,000 by Sir Lawrence Dundas, in the possession of whose representative, the Earl (now Marquess) of Zetland, they still remain. The Earldom of Orkney and Lordship of Shetland combined has come down through all those ages as a distinct and determinate *corpus*. It is otherwise with the Scottish Maormor-doms and Thanages, which can now be recognised only as traditional and indeterminate, in respect both of their extent and their revenues. It is this living permanence, so indissolubly and so largely mixed up with the history of the islands, that gives to the Earldom its abiding interest, and renders the investigation of its records from age to age so important in the study of Orkney and Shetland history.

Though we can with some certainty approximate the date of the erection of the Bishopric of Orkney as probably about the year 1102, when William the Old, regarded as the first bishop, appears to have been consecrated, there is yet the utmost uncertainty as to the origin of the secular endowments, either as regards heritable estate vested in the bishops, or power to them to tithe as in later times. There were indeed Bishops of Orkney, consecrated by Archbishops of Hamburg and of York, before Bishop William's time, ere the Archbishop of Drontheim in Norway had been finally recognised as the

metropolitan of the northern see ; but we are equally in the dark as to the special provision for their maintenance, further than what may be assumed as acquired by direction of the Pope, by munificence of lay donors, by cupidity of bishops and clergy, by fines, confiscations, and such other resources as the power of the Church, under countenance of the Crown and the Earl, could make available for its own aggrandisement. Certainly the bishopric estate had grown to important dimensions by the time of the Reformation. Bishop Graham, reporting to the Magistrates of Edinburgh in 1642, states that he understood "the old Bishopric of Orkney was a greater thing, and lay *sparsim* thro'out the haill parochines of Orkney and Shetland. Besyde his lands, he hade the teyndes of aughtene Kirks. His lands grew daily as irregularities increased in the country."

The mutations of the Bishopric estate have been scarcely less marked than those of the Earldom. By excambion and attempted consolidations, by appropriations to secular purposes, when all power was engrossed by the Stewart Earls, and to ecclesiastical purposes of different complexion, as Episcopacy or Presbyterianism was in the ascendant, its character and extent have been materially altered. By excambion between the Crown and Bishop Law in 1614, the Shetland portion of the Bishopric estate was transferred to the Crown in exchange for lands concentrated in one district in Orkney. With the abolition of Episcopacy at the Revolution Settlement these Bishopric lands became finally vested in the Crown ; and what now remains of them is administered by the Department of Woods and Forests, under the charge of a local chamberlain. Much diminished by successive changes in former times, its latest curtailment has been in our own day, considerable portions having been sold in 1854-56.

While the origin both of the Earldom and Bishopric estates in Orkney and Shetland is thus obscure, the RENTALS which have been preserved give a *vidimus* of the state of these properties, and, at the same time, throw a remarkable light upon the condition and value of occupied lands in the islands at different dates, in the course of three or four centuries past. The peculiar complexity of the land tenure and of the burdens on land, resulting from the

intermixture of Norwegian and Scottish forms and usages, adds additional interest as well as difficulty to the attempt to prosecute an inquiry in reference to those lands and duties. The foundation for all such inquiries was laid by Sheriff Peterkin of Orkney, whose 'Rentals of the Ancient Earldom and Bishopric of Orkney' was published in 1820. In those rentals we have detailed particulars of different dates from the fifteenth century, of the lands in every district in Orkney—their extent, feu or scat duty, landmaills, teinds, and other burdens exigible from them, with incidental information otherwise of much value. The rentals published by Peterkin are the following, viz. :—

- I. Lord Sinclair's Rental Book of Orkney. 1497-1503.
- II. The Rentale of King and Bischoppis Lands of Orkney. 1595.
- III. Bishop Law's Rental of the Bishopric of Orkney. 1614.
- IV. Rentall of the Landis and Dewties thair of quhilkis apperteinit to the lait Bishoprik of Orknay. 1642.
- V. The True and Just Rentall of all the Fermis, Debtis, Dewties and Gersumes off the Bischoprick of Orknay. N.D.
- VI. Donald Groats' Bishoprick Compt.-Book. Cropt, 1739.

But these detailed "Rentals" are not all that Peterkin brought to light in illustration of the successive stages of the Earldom and Bishopric estates. It was he who first directed attention to the series of charters and other documents belonging to the Bishopric, discovered in 1819, and which are preserved in the Charter-House of the city of Edinburgh, the city having held a lease of the Bishopric revenues for a period of years from 1641 to 1662.¹ The mere list of the principal papers of this series suggests how extensive the treasures of information are which lie available for the student who has leisure to pursue investigation there, *e.g.*:—

1. Inventory of Writs and Papers of the Bishoprick of Orkney, delivered to the Town of Edinburgh in 1642 (comprising numerous Charters from 1490 to 1614, Rentals, and Miscellaneous Papers).
2. Certane questions to be resolved anent the Bishoprick of Orkney given to Mr Buchanan, 17th October 1642.

¹ Charter of Mortification in favour of the Town of Edinburgh of the Bishoprick of Orkney for maintenance of their ministers, 1641.

3. Answers to certane Propositions requirit be the Richt Hon. the Provost, Bailzies, and Counsall of Edinburgh, concerning the Bishoprick of Orkney, this 19th of October 1642.

4. Queries to the late Bishop of Orkney anent the State of the Bishopric, and his Answers thereto, 1642.

5. Further Answers by Bishop Grahame.

6. Propositions be the Towne of Edinburgh to be resolved upon be the lait Bishop of Orknay, and his Answers to the Propositiones.

7. Report on Bishopric Parishes, 1627.

8. Report of Earldom Parishes—similar.

In addition to what relates strictly to the Bishopric estate, these papers in the possession of the City of Edinburgh contain inquiries as to the Churches and Church Revenues, then in many instances in a dilapidated state, both in Orkney and Shetland. One bundle of papers is described as "Ane uther bunthell, quhairin is conteinit the steipend dew to everie kirk in Zeatland, and quhairout of the samen is appoyntit to be payit," &c. This list of the stipends is, I suppose, the paper described in the preceding section on the "Revenues of the Parochial Benefices of Shetland in the Beginning of the Seventeenth Century."

Besides these publications by Peterkin, there is a small volume 'The Rentall of the Provostrie of Orkney, 19th March 1584,' printed by Sheriff Maconochie.

The foregoing preliminary observations bring me to the purport of the present inquiry, which is to show that, while so much has been done to illustrate the nature and extent of the Earldom and Bishopric estates and revenues in Orkney, absolutely nothing of the kind has been done for Shetland; while there is, in reality, not less ancient and valuable material extant, though up to the present time practically unknown, relating to the Lordship of Shetland. These are ancient Rentals, comprising proprietary lands of the Earls, and Skat and other duties exigible by them, in general form resembling the Orkney rentals, but for the most part entirely distinct, both as regards the denomination and character of the duties and the commodities in which the payments were made.

In these records we are brought into direct contact with peasant holdings and village communities of a very early type, in which the

lands were intermixed and runrig, with an agricultural system which has long since disappeared in most mainland districts of Scotland, but which continued to be visible in Shetland almost up to the present day. It is here, therefore, if anywhere, that we may look for pertinent illustrations of our most simple and archaic forms of rural economy; an economy, locally no doubt, in many respects unique, from the nature of the case—remote and insular, partly Scandinavian, partly Scottish—but yet of widespread interest in its general bearings. It is impossible, in limits like the present, to print in full any one of these Rentals. I shall, therefore, content myself with transcribing such brief extracts as will serve to give an approximately accurate indication of their character, and perhaps induce some future writer to embrace them all in a volume relating to Shetland, of the same character as Peterkin's 'Rentals of Orkney.' The order followed is chronological.

**I. The Skat Book of Zetland (Fifteenth or early
Sixteenth Century?).**

This, apparently the most ancient of all the northern Rentals, was formerly in the possession of the late Mr Balfour of Balfour and Trenaby, who, a number of years ago, allowed me to make a copy of his own transcript of it. It is now deposited in the General Register House, among the many other historical manuscripts relating to the islands. It bears no date, and makes no personal or other references sufficiently pointed to indicate the time conclusively. Old as it is, and expressed in a kind of mixed Scottish, it is a copy of a still earlier Rental, while presumably the islands were yet Scandinavian. If, as seems most likely, the reference to "my lord" (p. 173) is to one of the Sinclair Earls, the date must be at no great distance from the time of the impignoration to Scotland (1468), the language and whole tenor seeming to be inconsistent with what we should look for in the epoch of the Stewart Earls (1564-1614). The connection of the Sinclair family with the islands did not terminate with their resignation of the Earldom in 1471. Henry, Lord Sinclair, obtained, in 1489, a lease of the Earldom and Lordship, which only ended with his death at Flodden in 1513. "My lord" of the ancient line

might therefore apply to a time as late as the last-mentioned date. Its own caligraphic style is indeed sufficiently antiquated, but it winds up with a colophon expressive of its imperfect rendering of the more ancient and, to the transcriber, scarcely intelligible, original, thus (contractions expanded):—

“Finis quanti reperit.

In aventour this present writting be nocht our legiable for the strange leid and termis contenit in the samin to the reidar is ban nocht the hand that wret it for it is als obscoir to the wrettar nocht than equivalent cum originali in forma et in valore de verbo in verbum,” &c.

This rental bears no title, but is headed “The Skat of Zetland,” and seems to contain the whole revenues of the Lordship of Shetland with the exception of the northern isles of Yell, Unst, and Fetlar. It is impossible to assign a reason for the omission of these important districts. The revenues are enumerated under the two separate heads of (1) *Skat*, a burden apparently affecting all (or almost all) occupied land, and (2) *Landmailles*, the rent payable by tenants of property lands of the Lordship, and latterly by holders of feued lands. We have thus the total burdens affecting every parcel of land in the islands (apart from the excepted districts); and the enumeration of the occupied spots at this early period is of great interest. The division into parishes, in no material respect differing from the present, is also noteworthy. The order of contents is as follows (retaining the old spelling):—

I. SKAT, payable by

Burray.	Northt Maven.
Tynguell.	Nesting.
Dunrosnes.	Dailting.
Sandis, Esting, and Wawiss.	Lynnasting.
Qwailsay and the Skarreis.	Quhitnes.
Brassay.	Wysdail.
Golberwik.	

II. LANDMAILLS, payable by

Northmaven.	Dunrosnes.
Dailting.	Quhitnes.
Burrones.	Sandsting, Esting, and Wawiss.
Tynguell.	Lunnasting and Nesting.
Brassa and Burra.	Quhailsay and Scherrayss.

Then follows (III.) a second enumeration of SKAT from the parishes named above (No. I.) with the addition of the isle of Tronderay and Setir [?]. The two lists of Skat vary, both in the names of the places and in the extent of the exaction (when the places named are the same). The explanation of this is not apparent.

The following transcription of portions relating to a single district will sufficiently indicate the character of the whole Rental:—

(A) SKAT—DUNROSNES.

- Item Swynbrocht [Sumburgh] ij s. iiij d. in my lordis handis.
- Item Tullope [Tolob]—iiij s. viij d. veafirht.
- Item Oxinsta ii s. vadmell iij d. leanger.
- Item Oxniabo iiij s. vadmell viij ellis silver and vadmell viij d. leanger.
- Item in Dealle ij s. vadmell x skynis and silver and iii d. leanger.
- Item vj merk in Daile ix ellis wadmell.
- Item Brow xxxij ellis vadmell xvij d. leanger.
- Item Vo xx ellis iij d. leanger.
- Item Clumlie vj s. vadmell viij d. skynis and silver vj d. leanger.
- Item Exnabo in Sanedavik iiij s. vedmel vj d. leanger.
- Item Sanedavik tenetur iiij s. vadmell vj d. leanger.
- Item Schonderwek iij s. vadmell iij d. leanger veafirht.
- Item a merk in Schonderwek iij ellis wadmell.
- Item a merk in Hoiswek iij ellis vadmell tenetur vj d. leanger.
- Item Houland Cumlawek and Veaseter v s. v d. leanger veafirht.
- Item Burrowland Sandwik and Leobothan.

&c., &c., &c.

Sumburgh, which appears to have been manorial property of the Orkney *Jarls* from an early period, is thus shown to have been subject to its proper burden of skat like other places, though in the hands of "my lord" himself. In a subsequent rental, that of 1777-1778 (No. III.) it is expressly stated that the 24 merks of Sumburgh "never paid Scatt." No doubt, with the advent of the Stewart Earls the payment would be ignored, and in later times would be entirely lost sight of. The earliest formal document relating to the lands of Sumburgh that I am aware of is the charter granted in 1498 by William, Earl of Caithness (eldest son of William, last of the Sinclair Earls of Orkney), and his other brothers and

sisters, in favour of their brother, Sir David Sinclair, Fowde of Shetland, in which they conveyed to Sir David the said lands ("omnes et singulas ac integras terras de Swinburgh cum pertinen. et contingen. jacen. in dominio Zetlandiæ"). By a feu-contract in 1604, Earl Patrick Stewart confirmed William Bruce in the said lands, reserving always "the ryt and titill of the houss laitlie biggit be him [the Earl] upon the ground of the said landis of Soundburgh on the south syd of the new hall, togidder with ane yaird adjacent thairto at the south eist gabill of the said new hall off the lenth and breid of threscoir futes in everie quarter thair of, togidder with the pasturage of twa ky and twa oxene in the summer season." The "new hall" referred to is apparently the now shapeless ruin—*Jarlshof* of the 'Pirate'—close by the residence erected by the present Mr Bruce of Sumburgh. In the contract in question the Earl allows to Bruce the keeping of the foresaid "house and fortalice" of Sumburgh, subject to his being answerable for the inside "plennissing" and movables therein; and the Earl further reserves the "right to receive and uplift the haill profeittis and commodities of all Orkney fysche boittis and Cathnes fysche boittis upon the ground of the said landis of Soundburgh," payable by the fishers for liberty to build booths or lodges, and "cast fuill and devot" in connection therewith (Sumburgh Charters). There was thus, three centuries ago, a concourse of fishing-boats at Shetland from Orkney and the coasts of Scotland, very much as we have seen revived within recent years.

(B) DUNROSNES [Landmaills].

Item viij merk in Schonderwek xxxij d. fatguid.

Item Sande [in] Schatnes viij merk ij d. butir.

Item Roull in Schatness ix merk h. vj d. ye merk ij l. butir tenetur vij d.

Item Thomas Copland iiij merk viij d. fatguid.

Item Yalleman for v merk iij s. Skatnes a l. butir tenetur a l. and a merk got.

Item Thomas [in] Scholland v merk in Schatnes x d. fatguid.

Item Guttrun in Scholland v merk in Schatnes and ij merk in Tullope fatguid xx l. butir tenetur iiij d.

Item ij merk in Tullope pait.

Item Henry in Barrohus viij merk in Tullop viij d. fatguid.

Item a merk in Goit pait.

Item William [in] Vo [?] vij merk xiiij d. fatguid.
 &c., &c., &c.

(C) DUNROSNES SCHAT [a second time].

Item Skatnes iij s. viij d. tenetur with Henrie Sincler iiij d.

Item Le iij s. iiij d.

Item Haistensgar xiiij d. tenetur iiij. d. grass [sum ?] ne vadmél iij d. landmale.

Item Oxnasta a s. fatguid.

Item Oxnabo a merk i d. fatguid.

Item Oxnabo ye Schat xvj d. fatguid adt xvj d.

Item Brow v mellis and ij d. and ix merk h. iiij d. ye merk xiiij d.

Item Haldawell iiij s. iiij d.

Item Reggasta xvj d.

Item Vo xx d. fatguid.

Item Schelberre ij s. fatguid.

Item Clumle iij s. iiij d.

 &c., &c., &c.

The lists, from which only portions have been abstracted, contain almost every township (*tún*) now existing in the district; the most noteworthy exceptions are Levenwick and Maywick, which have been peopled districts for a very lengthened period. Other places omitted are mostly *outsets* of later times, probably not then existing.

Landmaills, it has been already explained, are *rents* for lands belonging to the Earldom and Lordship in property, or *feus* payable in respect of lands feudalised. As the lands in the islands were originally all *udal*, it was only in later times that the feu-duties came to amount to anything considerable, as feudal charters were more and more forced upon the native landholders. I prefer not to enter here upon the vexed question of the nature and incidence of *skat*, whether, as contended for by the Crown donatories, it is a feudal burden due to them as superiors; or whether, as insisted upon from age to age by the landholders, it is a *tax*, originally payable through the Earls, for the support of government, and should stand in place

of, or be superseded by, the British land-tax. It is needless to say that the former contention has been successfully maintained, and that both *skat* and land-tax have all along been exacted. It is also a question whether *skat* was leviable upon cultivated lands as such, or, as I think was the case, upon such lands in respect of their *skathald*, or common pasture-ground. The exactions of *wattle*, and *sheep and ox money*, do not appear at this time. The latter was not imposed until about the years 1572-1575.

The duties are paid in *wadmell*, skins, butter, *fat-guid*, and money.

Wadmell is the native coarse woollen cloth (Norse, *Vadmál*), formerly an important article of exchange and payment in all the Scandinavian North.

Fat-guid appears to comprise butter and oil. The term is used in this sense in Lord Sinclair's Rental (1497), p. 15, "fat guid butter, and ulie"; and Pinkerton so explains it in his Glossary. Oil is not mentioned by name in this Rental.

In numerous instances the term *Leanger* is used as denoting the name or nature of the duty. This is presumably *Leidangr*, which, in the sense of a *war contribution, a fixed perpetual duty paid to the King*, occurs frequently in Norse, Danish, and Swedish laws of the twelfth and thirteenth centuries (Cleasby-Vigfusson Dictionary, *sub voce*). In the complaints against Lawrence Bruce of Cultemalindie (1576) it is asserted by the people that "thair is ane dewitie callit Leanger, quhilk the Commonis of Zetland payis yeirlye, followand their wadmell, quhilk extendis to four Dense [Danish] quhytis, or ane calf skin, with everie xxiiij cutteill of Wadmell," which had been grievously augmented by Cultemalindie.

The term *veafirht*, frequently occurring in the rental, is to me unintelligible.

Tenetur is, I imagine, equivalent to "retained" in later rentals, which is there used to imply that the payment is withheld or unpaid, either from inability to pay or from the land being uncultivated, or *ley*, and therefore, for the time, not subject to the exaction.

The rental does not indicate how the rents and duties were collected; whether by the Earl or his representative direct from the individual occupants of the land, or whether the whole was allocated

upon districts and collected in slump by a servant or tacksman. The general understanding is that the *Under Fowde* of each parish was the representative of Government and charged with the collection of the dues, the *Lawwrightmen* (Norse, *Lögretta-menn*) seeing that justice and due measurement were observed between him and the commons. The money payments are computed in merks (13s. 4d. Scots), shillings, and pence.

II. Rental of Yetland, 1628.

This is a small manuscript volume, foolscap folio, preserved in the General Register House, part of an extensive collection relating to the islands. It is headed—

“The Compt of the Landis within the severall parochines and yles of Yetland gevin in be the fowdis for collecting of the taxation compting vxx [*i.e.*, 5-20] to the hundred.”

The “Compt” rendered by the parochial Fowdes on this occasion, which has fortunately been preserved, begins with an abstract of the extent of occupied land in the islands, stated separately in parishes, thus:—

	Merks.		Merks.
Dunrosnes	1917	Wallis	985
Burray, Gulberwek, Tron-		Delting	839
dray and Quarff	701	Nesting	854
Tingwall	815	Northmaven	1100
Bressay	373	Yell	1526
Quhytnes	364	Unst	2087
Weisdail	341	Fetlar	701
Aithsting	789		

In all, 13,392 merks. (The figures are given in the Roman notation—*e.g.*, Dunrosnes, $\text{j}^{\text{m}} \text{ix}^{\circ} \text{xvij}$ merk $\frac{1}{2}$ merk land.) The importance of this, as showing the extent of settled occupancy at the time (1628), and as forming a basis of comparison with all subsequent rentals, cannot be overestimated. In the detailed rentals of the parishes we have further the separate occupied rooms, or townships (*tíns*), which make up the aggregates as above.

The next entry is an explanatory statement “Anent the weyghtis measuris and reckningis of the dewties of Yetland,” which is of sufficient importance to entitle it to be printed in full:—

ANENT THE WEYCHTIS MEASURIS AND REKNINGIS OF THE DEWTIES OF YETLAND.

Ane cuttell wodmell is a Zelandis elne pryce thairof is 4 s. Scottis.

Sex cuttellis is a shilling wodmell and ten shilling wodmell is a pak.

Ane lea' [Leanger?] is payable be a calf skin or half cuttell wodmell, or pryce thairof 2 s.

Ane d. butter is 4 merk butter : six pennyis butter makis ane leispund.

Tuelff leispund makis a barrell butter. The pryce of the leispund is 48 s.

Ane can oyllie is the measure of a Scottis quart pryce thairof in the country is 12 s.

4 canis makis ane bull and 9 bullis makis ane barrell oyllie.

Aught uris of land makis ane merk of land : 18 merk land makis ane last of land, and 4 lastis of land is a piece of corneteynd.

Ane last land being 18 merk payis 6 meillis, viz., 3 leispund butter, 3 bullis oyllie.

Whair the corneteynd is payit in packit guidis ilk peice corneteynd is ane barrell : ane barrell butter ane yeir, and ane barrell oyllie anothir yeir.

Ilk Zetland shilling is 2 meillis quhairof ane meill payit in butter and anothir in oyllie.

Ilk meill of Scat is ane leispund butter or ane bull oyllie.

Follows : *Chairge of monyie for the Dewteis of Yetland, Crop 1627, as it was gevin be mr jon Dick¹ to his father.*

After this statement, the Rental proper begins with the headings, "Rentall of the Dewties of Yetland," comprising—(1) *Landmeallis*, estimated in wadmell and butter; and (2) the *Scat*, estimated in wadmell, butter, and oil, of which the following are specimen entries, viz. :—

¹ The Dick family of Edinburgh were long connected with Orkney and Shetland. Alexander Dick, before 1560, resided chiefly on his property in Orkney. He died in 1580, and was succeeded by his son, John Dick, who is said to have been a merchant of great eminence. His son, Sir William Dick, Lord Provost of Edinburgh, farmed the Crown rents of Orkney and Shetland, and it is evidently his son John who is here alluded to. Sir William attained to great wealth; but, coming to misfortune through his fidelity to King Charles I., in the troubles which overwhelmed that monarch he lost his all, and died miserably in prison. From him are descended the family of Dick-Cunyngham of Prestonfield, Baronets. In 1675 Captain Andrew Dick was made Steward and tacksman of the Crown rents, and the name was continued in the islands for about a century later, by the family of Dick of Frackafeld and Wormidale, now locally extinct.

I. DUNROSNESS.

	<i>Landmeallis.</i>	<i>Butter.</i>
Soundburght . . .	xx merk vj d. the merk xl cuttell	6 lb. 4 pence.
Clumlie . . .	ij merk viij d. merk v cuttell	v d.

II. DUNROSNESS SCAT WODMELL BUTTER AND OYLLIE.

Scatnes, viij s. viij d. lea^r Goit the 3 part Tenentis the 2 part.

Clumlie and Trosweik and Lugasetter, vj s. iiij d.

Scowsburgh, vj s. viij d lea^r.

In a number of the parishes *Conquest Land* and *Conquest Land-meallis* are enumerated, as also *Kirk land meallis*. *Corn Teynd*—butter and oil—is occasionally quoted.

There are then given—(1) The *Umbothes* (or Umboth Duties) ; *Wattle, Ox, and Sheep Silver* of each parish and isle ; (3) *Rentall of the Wattill as it was in anno 1605* ; (4) *The Rentall of the Lawting Oxen and Sheep of Yetland gevin up to Mr Wm. Levingstoun, Scheref deput and Chamerlane in anno 1615* ; (5) *The Rentall of the Peattis yeirlie to be casten won and led to the Castell of Scalloway conform to ane warrand direct to Alexr. bruce and preceptis to the Fowdis datit at birsay the 20 of feb. 1604* ; (6) *The Holms and ylandis in Yetland extracted out of the Bischopis rentall producit to the Exchequer in Novr. 1612 and subscribit be Andro Edmonstoun minister at Yell* ; (7) *Rentall of the Bishopis Umbothis* ; (8) *Rentall of the Conquest landis in Yetland be my lord in anno 1604. 27 June 1604.*

This list of contents of the Rental of 1628, even without quotation of details, is more than sufficient to indicate its importance. It is indeed a standard for estimating the state, in the beginning of the seventeenth century, of the Lordship of Shetland, and of the local weights, measures, and duties, which latter have been involved in confusion both before and after that time. It is impossible here either to give details or to analyse them, but a few special points may be referred to :—

(a) *UMBOTH DUTIES.*—These were the Bishop's revenue from Shetland. In 1577 a complaint was brought before the Privy Council by Barthill Strang of Voisgarth in the island of Unst, against Lawrence Bruce of Cultemalindie, for compelling him to

pay the bishop's duty called the "bishop's umbois in Zetland" three months before the term ('Register of the Privy Council of Scotland,' vol. ii. pp. 648, 649). Etymologically the word *Umboth* signifies administration by a delegacy, the duty having always apparently been collected by a representative of the absent bishop. According to Gifford ('Historical Description of Zetland'), p. 173, the *Umboth* duties comprised one-half of the corn tithes of every parish, except the united parishes of Tingwall, Whiteness, and Weisdale (which formed the Archdeanery of Shetland), and were payable in butter, oil, and occasionally money. This explains how it came to be that only one-half of these tithes came to the vicars of the parishes—that is to say, the corn tithes (*decimæ rectoriæ*), which properly belonged to the parson or rector, were divided equally between the bishop and the parochial clergyman; and the bishopric revenues of Shetland having been acquired by the Crown, by excambion with Bishop Law in 1614, the one-half belonging to the bishop (*i.e.*, the *Umboth* duties) then became, and still remain, part of the revenue of the Lordship, in the possession of the Marquess of Zetland.

(*b*) WATTLE.—In the complaints against Lawrence Bruce of Cultemalindie (1575), which contain the earliest reference I have seen to this duty, no explanation of its character is given. The complaint in regard to it is stated thus:—

"It is lamentit be the said auld Lawrichtmen that quhairas of the law and consuetude of the cuntrie in all tyme precedand the Lairdis entres, the Comownis payit thair dewities, callit wattill upon thair Lawrichtmanis bismeyre, be ane nummer and calculation callit merkis. Quhairas the Laird now compellis thame to pay the same in gudlin-taill upon the Dutche bismeyre, quhilk is thre or four merkis mair nor just," &c.

Founding upon etymological considerations, Balfour's Glossary to 'Oppressions in Orkney and Shetland' defines this duty as (Norse, *Vottr-tel*) "the ancient assessment for the salary of the Under-foud for summing up the evidence at the Vard-thing, afterwards a perquisite of the Bailie." Gifford, writing in 1733, explains its derivation as from the Danish words *nuit laugh*—*i.e.*, a night laying—arising from the circumstance of a certain saintly matron having at one time been sent over from Orkney by the Bishop, with the

assurance that her lying but one night in each parish would be followed by abundance of corn and fishing, a small sum being paid to her yearly from each parish in recognition of these blessings. Absurd as this story, adopted by all subsequent writers, may seem, there would yet appear to be a substratum of truth in what is implied in it, in so far as *night-lying* is concerned.

In the present Rental of 1628 this duty is entered as so many "*night's wattle*." Thus :—

Easter Quarff, 1 nyghtis wattill.

Summa [for Burray], 4 nyghtis wattill and 6 merkis.

This seems clearly to suggest *lodging*, night entertainment, probably the equivalent of *conveth*, or waiting (*Waitinga* of Latin charters) in old Scottish deeds, known also in Irish as *Coinmheada*. In modern Danish *nat-leie* is the term for night quarters; but the transition to *wattle* is, it must be admitted, not very natural or obvious. In the time of the Stewart Earls the inhabitants were held bound to "flit and fure," that is, to transport and convey, the Earl, his Chamberlain, and attendants, from place to place, a burden which was remorselessly exacted, usually without remuneration. In passing through the country, free night quarters were usually extorted in the same way. Adverting to Balfour's explanation that the wattle was a payment for the Foud, or Bailie, it is quite conceivable that it might also have covered expenses of night quarters for the Foud and his attendant officers at meetings of the Lawting or parish courts, though no direct evidence of this appears to be preserved. Whatever the origin, the duty grew in the course of time to be a permanent burden.¹

¹ Subsequent investigation has convinced me that the explanation of the origin of wattle, suggested above, is not without support of evidence. In the 'Diplomatarium Norvegicum' (vol. ii. part 2, p. 466) I find a deed (No. 623) by King Erik, the Pomeranian, dated at Lund, 15th April 1412, in which he grants to his trusty servant, Alexander van Klapam, all his lands in North Maven in Shetland—"Alt vaart godz sem ligger uppa Hieltland for nordan Mawed huiliket plæger att skyllda ok gifua tiu loduga marker til skat landskyld ok wesel," &c. The terms "skat, landskyld ok wesel," here used as expressing the dues (10 merks in all) exigible from the property, can, I think, be rendered only as *skat*, *land-rent*, and *night-quarters*. The word *wesel* seems to be, in its original form, the old Norse *Veisla veitizl*, thus defined in the Cleasby-Vigfusson Dictionary: "As a law term, the *reception* or *entertainment* to be given to the Norse King, or to the King's

Grassums, called also *Eistercowp* (*Eysetter-cowp*) and *Landsetter-town*, recognised burdens at the time of the Complaints against Cultemalindie, do not appear to be alluded to in this rental. They had probably not as yet become of such frequent and oppressive exaction.

(c) SHEEP AND OX MONEY.—This has always been quoted as a tax imposed by Bothwell, Duke of Orkney, of an ox and twelve sheep from every parish. Gifford (1733), while relating the story, seems to have had some misgiving as to its genuineness, for he adds, "But it seems rather to be a tax imposed upon the country by Robert and Patrick Stewarts, earls of Orkney, for they were the first that made it an annual payment." Gifford's surmise may now be affirmed to be an ascertained fact. The particulars of its first imposition are given in the Complaints against Cultemalindie, the instrument of Earl Robert's rapacity, in 1576: "It was hevelie lamentit and complenit be the said auld Lawrichtmen of the cuntrie of Zetland, that quhair the Laird of Cultemalindie, sen his entres [1572] hes rasit ane new exaction upon the cuntrie, quhilk was never tane of befor be na Fowde, of certane oxin and scheip yeirlie furth of ilk parochin at the tyme of the halding of the Lawting."¹ Elsewhere "ane ox and twelff scheip" are specified as the exaction.

The terms of the entry in the Rental now under consideration (1628)—"Lawting Ox and Sheep"—conclusively confirm this account of its origin—viz., for the expense of the great Lawting Court held at Tingwall annually; though, like the other exactions, converted into money payment, it continues a permanent burden to this day, though Lawting, Foud, and Lawman have alike vanished for ever.

'landed men,' or his stewards, for in olden time the King used to go on a regular circuit through his kingdom, taking each county in turn; his retinue, the places of entertainment, and the time of his staying at each place, being regulated by law. This was called *veisla* or *fara at veislum*." The term is further described by the lexicographers as "a royal grant, revenue." The circumstances of the case as here laid down correspond exactly with the position of matters in Shetland in early times, when inns there were none, and manor-houses, in the modern sense, probably as few; only, instead of the King on circuit we must understand the Jarl, or his Foude and officers of court. The transition from *veitsl* to *wattle* is easy, and quite in the spirit of the dialects.

¹ Complaints—'Oppressions in Orkney and Shetland in the Sixteenth Century,' p. 54.

The next Rental of the Lordship of Shetland to which I am able to refer is—

III. Zetland Scatt Rental, 1716-1717 (Earl of Morton's).

This book brings us down to a century later than the preceding. Its special interest lies in this, that it enumerates by name the individual occupiers of the land who pay the duties. It is thus a record of the whole population (heads of families) in the islands; and, in other respects, it gives an interesting glimpse of the state of society and of the economic conditions prevailing at the time.

I am obliged to Mr Harry Cheyne, W.S., for access to the original manuscript volume. Probably the only copy of it in existence is one made by myself for my own collection several years ago. It is in size foolscap folio, without title, but bearing the following explanatory note on a fly-leaf at the beginning:—

“This Rental is holograph of Thos. Gifford, Esq. of Busta,—and is presumed to be a copy of the Rental or Count Book for 1716 referred to by Mr Balfour in the Rental of the Lordship prepared by him in 1773, and partly from that of 1716.

“This copy was found by the subscriber among the papers of the late James Cheyne of Tangwick, and for the sake of preservation bound up by Henry Cheyne of Tangwick, Writer to the Signet, in the year 1840.”

As the contents are now of public, rather than private, interest, a befitting place of deposit for the volume would be the Historical Department of the General Register House, where so many documents of importance relating to the islands are preserved.

Thomas Gifford of Busta, a leading man in Shetland during the greater part of last century, was Stewart-Depute of the islands, and Lord Morton's Chamberlain or Factor for the Lordship, as his father John Gifford had been for many years before. He was the author of the ‘Historical Description of the Zetland Islands’ (1733), more than once referred to in the present volume.

The Rental comprises (I.) *Landmaills* and *Grassums*, being (A) Rental (and entry money) from lands belonging in property to the Crown, and (B) duty payable for lands held in feu from the Crown or from the Crown's substitute; (II.) *SKAT*, with *WATTLE*, *Ox* and *SHEEP MONEY*, levied upon the whole lands in the country, with

the exception of a few specified holdings quoted as "never in use of payment." These holdings are unquestionably *Setterlands* or *outsets*, improvements, in later times, from the *Skathald*, or common, and therefore independent of the old allocation of Scat. The ancient duty *Leanger* also reappears occasionally.

The book concludes with the following :—

GENERAL COMPUTE OF THE CROWNRENTS OF ZETLAND.

The propertie and fewed Crown lands.			Udel land.
	Propertie land.	Fewed land.	
Dunrossness	64 ½	482 ½	1203
Fair Isle	...	96	...
Burray Isle	...	100 ½	152
Gulberweck	63 ½	28 ½	241
Brasay and Noss	...	22	332
Tingwall and Trondry	140	79	648
Whitnes }	109 ½	33 ½	572
Wisdall }			
Aithsting }	83	91	569
Sandsting }			
Walls	20	33	385
Sandness }	...	...	188
Papa }			
Ffouilly }			
North Maven	72	124	829
Delting	19 ½	223 ½	623
Nesting }	22	64	424
Lunasting }			
Qhalsay	41 ¾	...	178
Skeries	...	15	39
Unst	389	33	1627
Uya	...	...	84
ffetlor }	198	42	544
No. yell }			
Yell { So. Yell	37	24	580
{ Mid Yell	50	57	910
	1309 ¾	1587 ½	10262

The summations are not strictly accurate, and the figures given do not entirely correspond with the detailed lists of each parish. The differences are probably accounted for by the deductions for "ley lands and retentions," a considerable item in every parish. A column for the totals of "Scat, Watle, Ox and Sheep money," payable by each parish or district, is prepared, but not filled up.

The total area of cultivated or occupied lands in Shetland is given as $13,159\frac{1}{4}$ merks, as against 13,392 merks in the Rental (No. II.) of 1628, showing a diminution in 88 years of 233 merks. The variations and uncertainties, however, in these Rentals, which it must always have been difficult, if not impossible, to avoid in recording the minute details of such an extended and scattered area, together with the destruction of portions of the soil by sand-blowing and exhaustion, are such as to make an attempted analysis of the differences of doubtful value. The relative extent of the different kinds of land tenure in the islands, viz. :—

	Merks.
Property land of the Lordship	1309 $\frac{3}{4}$
Feued land	1587 $\frac{1}{2}$
Udal land	10262
	13159 $\frac{1}{4}$

is now given in this Rental for the first time, so far as I am aware. Up to the time in question (1716) more than an eighth of the ancient udal lands of Shetland had been entered under feudal charters, granted either by the Crown or by the grantees of the Earldom and Lordship. At the same time, the property lands of the Lordship are shown to be about a tenth of the whole occupied area of the islands.

The Rental contains also copies of the accounts for the year against a number of the principal landholders.

The three Rentals above described are the only complete Rentals of the Lordship of Shetland I have had access to. There is, however, another, 62 years later, comprising particulars of perhaps one-third of the extent of the Lordship.

IV. Skatt Book, &c.

For the Ministries of Dunrossness, Bressay, Gulberwick, and Tingwall. Crop 1778-1779.

The more detailed title is "A Rental of Dunrossness Ministry, showing the Feu'd and Sir Laurence's Property Lands in each Room, with the names of the Present Feuers, and also all the sundry other Proprietors who at present possess Lands in each Room."

This is a use-and-wont Rental, for the districts mentioned, supplied to the local collector or tacksman (apparently the then Mr Bruce of Sumburgh), for Sir Laurence Dundas, who had some time previously acquired the Earldom and Lordship, as formerly stated. This is seen from the note of direction given at the beginning:—

"*N.B.*—The Labourers will not give more for Scat than they have been annually in use to pay, which has been only money. Therefore, Mr Bruce, like Mr Balfour, must in the meantime take the common use and wont, which is as stated in this account."

This note may be by Sir Lawrence, or by his Chamberlain in Shetland at the time.

The original Rental is in the possession of Mr Bruce of Sumburgh, at Sand Lodge, by whose permission I made a copy of it some years ago. It is a small volume, foolscap folio, about 12 inches $\times$ 7 $\frac{1}{4}$. The skeleton, or framework—*i.e.*, the ruled columns, headings, and principal place-names—appear to be the work of a clerk, copying from a former similar Scat-Roll,—that of Craigie (1747) is specially alluded to. The names of the tenants, the extent of their holdings, the duties payable, and certain accounts and receipts, appear to be in the handwriting of the laird of Sumburgh. Statements of rental, duties, and explanatory notes, on four pages (75, 76, 77, 78) are apparently by Robert Hunter of Lunna, and initialled by him "R. H."

This Scat-Roll contains (I.) a Schedule for the whole district embraced in it, in columns as follows:—

Number of Merks in each Room.	Names of Rooms and Feuers.	Feu'd Lands.	Udal Lands belong- ing to each Heritor.
----------------------------------	-------------------------------	--------------	--

A consecutive list (II.) of the various "Rooms," or townships, is then given, with the extent, and the duties of "Scat and Watle, &c.," as allocated to the occupants, who, in many cases, are specified by name; and (III.) copies of the accounts charged against several of the larger heritors.

A comparison of this Rental (1778) with the preceding one of 1716 would show the changes that had taken place in the course of the 62 years intervening—what new land had been added for rental purposes, and what had ceased to be chargeable with duties, as, for example, the lands of Lie in Dunrossness, 27 merks, stated in the latter Rental to be "ley or gevin down by him [Robert Sinclair of Quendale] to the tenents becauss of being blasted with sand. The Scat thereof is £12, 3 shillings." It may be worth while to transcribe the particulars of the Scat, Wattle, &c., of a single township, Scatness in Dunrossness. The extent is 144 merks, and the gross charge is £45, 12s. Scots, but of this only £36, 8s. 4d. is apparently recovered, 29 merks being given as "ley" or not sufficiently laboured:—

SCATNESS.—144 merks @ 6s. 4d. per merk is		£45 12 0 Scots.
15 merks	Mrs Strong in the Hays . . .	£4 15 0
11 "	Mr John Strong, junr., Virkie . . .	3 9 8
5 "	Mrs Mercer	1 11 8
3 "	John Archibald	0 19 0
3 "	John Leisk	0 19 0
12 "	Peter Halcrow	3 16 0
16 "	Mr William Bruce, Bigtoun . . .	5 1 4
4 "	John Stout	1 5 4
6 "	Robert Alison	1 18 0
3 "	Alexander Aitkin	0 19 0
3 "	William Aitkin	0 19 0
3 "	Marjory Grott	0 19 0
9 "	Sumburgh	2 17 0
6 "	John Shewan	1 18 0

3 merks	Robert Leisk	£0 19 0
4 "	William Stout	1 5 4
3 "	Thomas Moodie	0 19 0
6 "	Thomas Hay	1 18 0
115 "		£36 8 4
29 "	appears to be ley or laboured for 2s. 3d. and 1s. 10d.	
144 "		

Payments in kind are not here quoted, only the usual money payments; the skat, wattle, &c., being reckoned in this instance at 6s. 4d. Scots per merk, but varying in each separate township. In the accounts rendered to the heritors, something like the old system is followed, with the full specification of payments in money and in commodities, thus :—

Dr. JOHN HALCROW in Hoswick.

For Feu duties and Scat, &c., for Crop 1777, payable 1778.

10 merks in Hoswick paying for landmails 4 lispunds and	[Scots.]
10 merks Butter, and in money	£5 6
To 4 lispunds and 10 merks Butter @ £4, 4s. per lispund is	18 11
To Wattle, &c., of do @ 1s. 6d. per merk	0 15
	£24 12

Again :—

Dr. ROBERT ALLISON.

For Feu Duties and Scat, &c., Crop 1777, payable 1778.

6 merks in Scatness paying for Landmailis 2 lispunds Butter	[Scots.]
and money @ 8s. per merk is	£2 8
To 2 lispunds Butter @ £4, 4s. per merk	8 8
To Scat of do @ 6s. 4d. per merk	1 18
	£12 14

The lands in those two instances are *feued*, paying *landmailis*, with Wattle in the one case, and Skat in the other, superadded. In other instances the Skat and Wattle are charged on Udal lands only,

feued lands having their own distinct charge of butter and money. The practice seems to be varying, and there is difficulty in finding any uniform principle. *Umboth* duty, the old revenue of the Bishop, but possessed by the Crown or its substitute since 1614, is sometimes charged in slump to larger heritors. In most cases it is not specified.

While the foregoing are the only detailed Rentals to which I can refer, it appears that there is extant, and I presume in the possession of Lord Zetland, a Rental of the Lordship for the crops 1655 and 1656. Reference is made to it in a portion of the printed process, *Spence v. Lord Dundas* (Division of Scattald of Haroldswick), 1836.

In the Marquess of Zetland's estate office in Edinburgh there are continuous Rentals brought down from the carefully prepared Rental of 1772 to the present date. These, however, are private property, and have no occasion to be imported into an inquiry of purely historic interest, unless for the sake of explanation or illustration. I may, however, be permitted to transcribe the following statement of the total revenues of the Lordship from a private Act obtained by Lord Dundas in 1812. The Act (52 George III. c. 137) is titled "An Act for enabling the Right Hon. Thomas, Lord Dundas, to sell certain Feu and Teind Duties and Casualties of the Earldom of Orkney and Lordship of Zetland, upon entailing lands equivalent in value thereto," 9th June 1812. The statement is a copy of Schedule B attached to it (see p. 190).

This vidimus of the position of the Lordship duties—the now obscure ancient imposts—brought down almost to our own day, with little change, is of much interest. While the old payments in kind continue to be quoted, doubtless with as rigorous exactness as the circumstances admitted, they are computed at a fixed money value, and the total revenue is brought out in £ s. d. Scots, converted into sterling money.

In the course of the nineteenth century the duties were to a large extent bought up by the proprietors of the lands liable, so that the amount now leviable is inconsiderable. From a copy of the Rental of the duties, described as *Feu, Scatt, and Umboth Duties*, for Crop

**V. Schedule B. Specifying and Containing the Entailed Feu and Teind Duties and Casualties
of the Lordship of Zetland.**

Names of Parishes and Islands.	Names of Tacksmen.	Feu and Umboth Duties.						Scatt, Wattle, Sheep, and Ox Money.				Total Annual Value.	
		Oil.		Butter.		Scots Money.		Oil.	Butter.	Scots Money.	Sterling Money.	£	s. d.
		Barr. £2.	Barr. £3, 18s.	Lispds. 9s. 9d.	Mks. 4½d.	£	s. d.	Cans. 1s. 2d.	Lispds. 9s. 9d.	Mks. 4½d.	£	s. d.	£ s. d.
Island and parish of Unst	Thomas Edmonston and W. Spence.	..	..	44	14	65	10 0	74½	37	0½	314	5 3	62 5 3
Island of Vell	William Hoseason .	..	..	35	2	42	2 0	63½	44	2	167	18 10	49 2 10½
Umboth feu-duty now fixed at £8, 2s. 3½d. sterling.	Robert Bruce .	..	..	..	..	97	7 6	..	..	..	..	..	0 13 2½
Island of Fetlar	Robert Smith .	..	..	29	21	35	17 0	74½	40	13½	155	6 8	45 0 1
Parish of Northmave	James Cheyne .	..	..	65	18	280	2 0	84½	27	8	137	18 0	69 18 4½
Nesting, Lunnasting, Whalsay, and Skerries.	Robert Bruce and Robert Hunter.	½	½	30	7	122	6 0	50½	13	4½	137	4 0	40 6 4½
Whitenys and Weisdale	Robert Ross .	..	..	4	20	73	16 0	..	..	..	137	7 10	15 12 9½
Tingwall parish	John Scott .	..	..	31	22	38	6 0	..	..	..	83	8 1	37 0 6½
Sound Gulberwick and Quarff	Thomas Bolt .	..	..	6	..	14	4 0	..	..	..	86	17 0	9 1 0
Islands of House, Burra, and Havro	John Scott .	..	..	21	6	50	14 0	..	..	..	45	5 4	21 7 8½
Island of Bressay	Lawrence Hughson .	..	..	10	2	12	2 0	..	..	..	121	5 3	13 3 2½
Dunrossness, Sandwick, and Cunningsburgh.	Lawrence Hughson .	..	..	139	2	755	4 8	24	6	..	453	12 10	154 13 4½
Aithsting and Sandsting	John Scott .	..	..	53	12	67	16 0	118½	29	20	137	9 0	52 13 5½
Walls, Sandness, Papa, and Foula	John Scott .	..	..	14	10	49	6 0	..	..	..	131	17 6	26 4 3½
Umboth duty of ditto, now fixed at	Arthur Nicholson .	..	..	..	..	71	12 9	..	..	..	..	..	4 18 7
Parish of Dalting	James Cheyne .	..	..	75	22	205	10 0	65½	16	3	124	15 8	62 10 5½
Total	Total .	½	5	562	14	1981	15 11	555½	234	4½	2457	11 3	670 11 6

Total annual value as above
Deduct Crown feu-duty and land-tax payable from the above
Net value for one year

670 11 6
253 13 9
416 17 9

1865, payable at Lammas 1866, kindly shown to me by Lord Zetland's representative in Shetland, it appears that the total sum remaining payable from the islands then amounted to only £88, 2s. 11½d. In every case the payments are reckoned in Scots money, converted into sterling. The *Feu* duties are partly in money and partly in butter (*lispunds* and *merks*); the *Scatt* is in money only, except in the one parish of Walls. *Umboth* duty is charged only in two parishes—viz., for Dunrossness, in one sum paid by one proprietor, £170, 4s.; and for Walls, in the same way, £71, 12s. 9d., both Scots money. The price of butter (when not paid in kind) varies according to the state of the market. In 1866 it was charged at 21s. 4d. per lispund. In 1885 at 32s.

While the ancient traditional duties leviable from the Lordship of Shetland have been largely augmented from time to time in the course of many centuries, the amount retained in the hands of Lord Zetland is only a fraction of the aggregate in former times. The remnant of the old heritage of the Jarls, the *property lands* belonging to Lord Zetland, are still considerable. In 1885 the extent of these lands was 895 merks 2 ures, lying in the following parishes, viz.:—

	Merks.	Ures.
In Unst	289	0
" Fetlar	155	2
" North Yell	49	4
" Mid and South Yell	24	0
" Nesting	11	4
" Sandsting and Aithsting	36	0
" Tingwall, Whiteness, and Weisdale	220	0
" Lerwick and Gulberwick	31	4
" Quarff	78	4
	885	2

The annual value was £995, 2s. 10d.; so that his Lordship still retains a substantial interest in the islands.

In Orkney the landed estate of the Earldom is a valuable one, the annual rental being stated in the Parliamentary return of 1872-73 at £5617, 17s.

The following Rentals of the Earldom and Bishopric estates and

revenues in Orkney are not included in Peterkin's series, and are not elsewhere described :—

I. COMPT OF THE EARLDOM, 1612.

II. COMPTS OF TACKSMEN OF THE DIFFERENT PARISHES OF ORKNEY, 1612.

III. ACCOMPT OF JAMES BISCHOPPE OF ORKNAY OF ALL THE RISAITTIS AND INTROMISSIONS HAID BE HIM, 1611.

These three are preserved in the General Register House, where they are available for purposes of historical inquiry.

IV. THE RENTALL OF THE BISHOPRICK OF ORKNEY.—This Rental contains the names of the lands and their occupants and the duties payable in the parishes of Sandwick, Stromness, Holme and Paplay, Orphir, St Olla, and Shapinshay.

Walls and Hoy, usually included in lists of the Bishopric parishes, are omitted. No date is given, but among many persons referred to we find the names of such prominent individuals as Arthur Buchanan of Sound and Patrick Græhame of Grahamshall, who flourished about the middle of the seventeenth century. The Rental is a neatly penned manuscript of that period, and is now in my possession.

V. COMPTING RENTAL OF THE EARLDOM OF ORKNEY, 1740.—This is also in my possession. It is incomplete and mutilated, several pages having been torn out. The nominal pagination is 1-262. Up to 1820 it was in the hands of Mr George Ross, son of Andrew Ross, Chamberlain of the Earldom about the middle of the eighteenth century. It contains the "Particular Accompt made with the Vassals and Tennents" in the following parishes—viz. : St Olla, Firth, Stenness, Harray, Rendal, Evie, Birsay, Deerness, Rousay, South Ronaldshay, Stronsay, Sanday, Westray.

The usual payments consist of the following—viz. : Butter (barrels, lispunds, merks), Malt (meils, setteins, merks), Meal (meils, setteins, merks), Money, Poultry, and Oil. Peat, Straw, and Swine, enumerated in the schedule annexed to the Act of 1812, seem not to appear. *Scat* silver and *Wattle* are quoted, though it has been sometimes stated that the latter exaction was unknown in Orkney.

4. SOME FORGOTTEN INCIDENTS AND PERSONAGES IN THE LOCAL HISTORY OF SHETLAND.¹

Remote as Shetland is from those influences and activities which have tended to the making of history in the provinces of Scotland in the past, with a scanty population, a poor soil, and limited possibilities in every direction, it is yet astonishing what a wealth of incident and association is found as the reward of patient research in its obscure annals. Formal history has not failed to present the fascinating story of the Norsemen as conquerors, and finally occupants, of the country, and to repeat the tale of oppression since the sovereignty passed from the Dano-Norwegian crown to that of Scotland. Prolific, too, in illustrations of life in the prehistoric ages have been the revelations of archæological discovery. But local and personal history, the absorption and aggregation of landed property, the rise and fall of families, the incidents of social development are yet practically unexplored; and, fortunately, materials for the study, restricted though they be, are not wanting. I have endeavoured to bring together a few illustrative incidents here. The sources from which these are derived are mostly legal records, ancient native deeds, and other original documents noticed in this connection for the first time; anything previously to be found in print is either in works issued abroad, or appearing incidentally in works of a different class and difficult of access, and, practically, so far as local history is concerned, unpublished.

I. Earl Rognvald and the Dunrossness Man—Twelfth Century.

Since the issue in 1873 of the translation of the 'Orkneyinga Saga,'² which contains the earliest records of Orkney and Shetland history, an unknown fragment of the Saga as originally composed was discovered by the late Professor Vigfusson at Upsala. This fragment gives perhaps the earliest picture we possess of everyday life in Shetland, in the story of an incident between the Earl

¹ Communicated to the Society of Antiquaries, 8th December 1890.

² The Orkneyinga Saga, translated by Jón A. Hjaltalin and Gilbert Goudie. Edited by Joseph Anderson. Edinburgh, 1873.

Rognvald of Orkney, Lord of Shetland, and a Dunrossness man (*bóndi*, small farmer) which occurred most probably on the occasion, about the year A.D. 1150, when the Earl, crossing from Moray, was wrecked at Gulberwick, near what is now Lerwick. The story tells how the Earl in disguise went off to a fishing near Sumburgh Head with a country man in place of one of the ordinary crew of the boat; how the stranger plied the oar while the man fished; how they were nearly swept away by the violent tide of the Sumburgh *raust*, the stranger maintaining meanwhile a jaunty good humour, and surprising the other by handing over to him his share of the fish when their catch came to be divided; how the Earl missed his footing in ascending the cliff and fell down, creating merriment to a number of women and other spectators; how he composed a stanza in his usual style on the occasion, and how the *ruse* he had thus played on the country people was discovered.

The narrative, though more than 700 years old, has all the freshness of yesterday, showing to us men and women in their everyday calling, with indications of a fishing and agricultural industry combined, in very much the same way as at present existing in the district.¹

II. A Shetland Heiress, anno 1403.

A curious record of personal attire and domestic equipment 500 years ago, of quite a superior kind, is preserved in the list of the goods and gear of a Shetland heiress, one Gudrun Sigurd's daughter, wife of Arnbiorn Gudleikson, residing in the Faroe Isles, dated 1403.² Abbreviating the description, the lady's possession is said in the old Norse deed to have consisted of—

A headdress valued at 13 or 14 öre; a full dress suit decorated with shields down to the waist in front and on the loins; a great silver buckle, and a rosary with silver beads; a small buckle from Courland of silver gilt or of gold, a finger-ring of gold, and two silver bowls; two cloaks, and gowns with buckles; bed ornaments and curtains, silk red and

¹ The text of the story is given in the original Old Northern in 'An Icelandic Prose Reader,' Oxford, 1879. I have printed a translation of it in 'Mill's Diary,' issued by the Scottish History Society, 1889.

² Diplomatarium Norvegicum (several separate documents).

green, and numerous bright ornaments ; that she wore no other head-dress except on Friday, when a coarse cap was used ; 5 or 6 beds, and pillows, with covers of precious workmanship and fringes, and a large furnished chest ; basins and bathing-tubs on two feet (*tuifot*) ; dishes, cans, pots, kettles and goblets beyond number ; with two sets of house furnishings, tapestry hangings and carpeting, brocaded and braided lace coverings [for saints, or relics, or pictures] ; and in addition, a land rent from Shetland.

In another document of nearly the same date, this lady's possessions are again described as consisting, apart from her heritable properties, of the following, viz. :—

Six beds with down pillows and precious fringes, the large pillows with goose feathers, and good covers of precious workmanship ; a head-dress valued at 13 öre (as mentioned in the document last quoted) ; rosaries with silver beads, 3 finger-rings of gold and a suit ornamented with shields, and other effects, very much as described above.¹

III. Hans Sigurdsson's Estate in Shetland, 1490.

The division of the estate of this great landowner, whose properties lay in the parish of Northmaven and elsewhere, as described in a deed of 11th September 1490, executed at the sight of Archbishop Gaute of Drontheim and others, throws an interesting light upon the state of landed property in the islands at that comparatively early period, upon the persistency, on the one hand, of local names, and on the other, the differentiation, by a gradual process, of their forms in the course of time. At the same time the system of heritable succession is well illustrated ; while it is also conclusively shown that large landed estates, which are usually represented as a feature of modern growth, were accumulated in the northern islands at an early date, even during the Scandinavian period, side by side with the smaller holdings, which were unquestionably the characteristic feature of the Udal system there. The deed of division is given in full in the 'Diplomatarium Norvegicum,' vii. p. 436, and the place-names are critically discussed by the late Professor P. A. Munch of Christiania

¹ These ancient deeds, contained in the 'Diplomatarium Norvegicum,' were printed in the Maconochie collection of Orkney and Shetland deeds issued for private circulation at Edinburgh in 1840.

in a paper in the 'Mémoires de la Société des Antiquaires du Nord,' 1850-60.

IV. Testament of Sir David Sinclair of Sumburgh, 1506.

Equally interesting indications of the more opulent life in the islands in early times are found in the testament of Sir David Sinclair of Sumburgh, signed at Tingwall 9th July 1506. Sir David was third son of Earl William St Clair, from whose other sons and daughters he obtained the Sumburgh and other properties in Shetland, by deed dated at Edinburgh, 3rd December 1498. He was high in esteem with the King of Denmark and Norway, and while occupying the position of Great Fowde of Shetland, held at the same time the appointment of Captain General of the fortress at Bergen in Norway. In the Will, a copy of which is preserved among the papers of the Sheriff Court of Orkney, and has been printed in the 'Miscellany' of the Bannatyne Club, we find that all Sir David's inherited property in Shetland, together with valuable personal property, was bequeathed to Lord Sinclair, while Lady Sinclair and other noble friends were suitably remembered, and the following Shetlanders—viz., Thorrald of Brucht, Richard Lesk, William Spens—and others received various small lands and other presents. To St George's altar, in the Danish cathedral of Roeskilde, he left the gold chain which he got from the King of Denmark; a cup was destined for St Magnus Church at Tingwall, but seems never to have reached that place, and his *black velvet cloak* was left in the proportions of two-thirds to the church at Tingwall, and the remaining one-third to the Cross Kirk of Dunrossness, a venerable fabric which existed for 300 years later, only to be swept away at the end of the eighteenth century by a barbarity ever to be reprobated and deplored.

V. Fight with Invaders from the Lews.

This incident, which is stated to have occurred in the reign of Queen Mary, is related in a MS. 'Description of Dunrossness, by Mr James Kay, Minister thereof' (from 1682 to 1716), contained in volume 13. 2. 8. of the manuscript collection in the Advocates' Library.

I can hear of no Battels fought in this place [Dunrossness]; only here (as in other places) they have not wanted Feuds, which have occasioned some skirmishes. One in the reign of Queen Mary between Oliver Sinclair of Brow in this parish and Hutchen of the Lews, the occasion whereof was this. William of the Lews having married an Heretrix in this Countrey, Oliver Sinclair being Fowd or Governor of the Country, feared lest William [Macleod] of the Lews, being a great man, should possibly have opposed him; therefore he concluded to make him away, to which he was not a little instigated by his wife. And because he could not avowedly effectuate his murderous design, he resolves at length upon this expedient, that he would go, and, in show of friendship, visit him, which done, under pretext of intimate Comradship, he would exchange pages with him. In the meantime he had conduced his page, thus exchanged, to kill him, which he did that same night. In revenge of whose death Hutchen of the Lews, brother to the deceased William, made several inroads into this Country; but his people here having advertisement given them by some of the inhabitants of the Fair Isle whom they had conduced to that purpose, for the first two attempts he prevailed not. But the third time he overtook the Fair Isle boat before she landed and put the boatmen to the edge of the sword. Which done, he landed at Gairth Banks without opposition, and made a great slaughter, especially about Quendale, a quarter of a mile from Brow, where in one morning fell above sixty souls. But Oliver himself fled to Soumburghhead, where being hotly pursued he leapt over, but eventually falling upon a bit of green in the clift of a rock, he escaped without more prejudice but the loss of an eye, and Hutchen is by Queen Mary commanded back.

Local tradition has preserved emphatically the memory of incursions by the Lewismen. Scenes of conflict with them are still pointed out on the Links of Sumburgh, and at the sandy shore at Scousburgh where the "Lewis Scords," so called, are still shown. The present encounter, inspired by revenge, appears to have taken place at Quendale, in the same parish of Dunrossness; but the incursions were frequent, and spread over a lengthened period, and the accounts as reported at the present day are mixed up in some confusion. So early as in 1461 the ravages of these marauders formed the subject of complaint by Bishop William of Orkney to the King of Denmark and Norway.¹ The story here

¹. *Diplomatarium Norvegicum*, vol. v. p. 605.

given, though not corroborated by any known record, may be supposed to approximate to accuracy, as the alleged occurrence was at no great distance of time from that of KEY, who recorded it.

Oliver Sinclair of Brew was the *Great Fowde* of Shetland who entertained Bothwell in 1567 on his strange meteoric visit to the northern islands after his flight from the side of Queen Mary on the field of Carberry Hill. The family of Brew was at one time of first consideration in Shetland, possessing extensive properties not only in the south end of the country, but also in the island of Unst and elsewhere. They seem to have gone rapidly down after the time of this Oliver, but representatives remained into the last century, when the succession passed to the family of Mr Grierson of Quendale.

VI. Slaughter of Richard Leask.

The following is quoted from the same manuscript as the preceding :—

Not long after this [the incursion of the Macleods of the Lews] happened another [skirmish] between Henry Sinclair of Sandwick and Henry Dillidasse, occasioned by some little prejudice done in the House of Brow to the servant of Henry Sinclair. In revenge whereof, being instigated by his wife, Henry Sinclair conducted his man to stab Richard Leask, son-in-law to Oliver Sinclair of Brow, which he did as he was entering the door of the Church, and so he died. Henry Dillidasse, son-in-law to the deceased Richard, being in Orkney at the time, and hearing of the Murder, went over to Caithness, and assembled some of his Friends to revenge his father-in-law's death, with whom he came over to Zetland. But Henry Sinclair, with some of his friends and followers, being fled north the length of Laxfoord,¹ he pursued after them, and they not advertised of his arrival were returning southward. So they met upon a Moor between Laxfoord and Lerwick, where at first meeting Henry Dillidasse desired them to surrender the Murderer, on whom he might inflict condign punishment for his crime, promising that upon so doing there should be nothing but peace and friendship betwixt them; which the other refusing to do, they prepared for a skirmish, in which Henry Dillidasse slew the Murderer with the shot

¹ Laxfirth.

of a Pistol, and the rest were forced to flight. Henry Sinclair himself narrowly escaped, and one Sinclair of Burra swimmied over to Trondra, near a mile of Sea. In this skirmish several fell on both sides.

This Richard Leask ("Richart Lesk") who was murdered at the door of the Cross Kirk of Dunrossness, may have been the same Richard who was appointed by Sir David Sinclair to be one of his executors in his testament of 1506 before referred to. Sir David bequeathed to him 20 merks of lands in Cwndistay [Brindista?] and a ship—"my Inglis [*i.e.*, English] schipe with all geir." The story of the murder is nowhere else recorded, and no knowledge of Leask otherwise is preserved in the islands.

The above incidents (V. and VI.) I printed for the first time in 'Mill's Diary,' issued by the Scottish History Society in 1889. The work is not available for general circulation, which justifies the reproduction of the stories here.

VII. Trial of Cultemalindie, 1577.

There is no event in the history of Shetland that equals in intensity of interest the trial of Laurence Bruce of Cultemalindie; no record approaching it in tragical detail, or so vividly portraying the social and economic condition of the islands, and that at a time of exceptional interest, following upon the crisis of the Reformation, and the upheaval and unsettlement of political affairs in Scotland which ensued. It must be remembered, too, that at the time Orkney and Shetland had been little more than a century dissociated from their direct dependence upon Norway. The extraordinary thing is that while the extortionate and tyrannous character of Lord Robert Stewart's rule in the islands has been well understood in a general way, the details, and even the knowledge of this trial having taken place, had passed entirely out of view until the record of the trial itself, now preserved in the Register House, fell into the hands of the late Mr Balfour of Trenaby, who presented it as a contribution to the publications of the Maitland Club.¹ Precious as the record is, the details

¹ Oppressions of the Sixteenth Century in the Islands of Orkney and Zetland: from original Documents. Edinburgh, MDCCCLIX.

regarding it need not be reproduced here. It may be sufficient to state that it consists of a body of General and Particular Complaints by different districts and individuals, with notices of special "Bills of Complaynt" by Andro Hawyk of Scatsstay, Barthole Strang of Voisgarth, Andro Fairlie and Gawane Gadie of Lugasetter in Dunrossness. The evidence taken is of an exhaustive and often pathetically interesting character.

VIII. The Family of Cultemalindie and Muness.

Laurence Bruce of Cultemalindie, a small property in Perthshire, was the son of John Bruce, third laird of Cultemalindie, by Euphemia, daughter of Lord Elphinstone, who had previously been the mother of Lord Robert Stewart, afterwards Earl of Orkney, illegitimate son of King James V. His appearance in Shetland as *Great Fowde*, or Chief Magistrate, in 1571, was thus the natural result of his connection with Earl Robert, of whose extortions and oppressions he became the ready instrument. He seems to have been overbearing and turbulent in temper, and, like his master, to have been often in trouble.

The culmination of his career of rapacity has already been referred to under the head of his trial at the court held at Tingwall in 1577. The Privy Council ordained that he must remain on this side "the watter of Tay, and in no wayis transcend the saidis boundis, nor pass to the saidis cuntries of Orkney and Zetland in time comeing, quhill the said order be tane"; and, as the result of the finding of the Commissioners, he appears to have been deprived of the office of Fowde, and Earl Robert to have been placed in ward. Bruce, however, had established himself well in Shetland by this time, speedily acquiring lands in different quarters, and about 1598 erecting a well-appointed dwelling-house, the Castle of Muness, in the island of Unst. Over the doorway he placed a self-complacent inscription as follows:—

"List ye to know this building quha began,
Laurance the Brus he was that worthy man,
Quha earnestlie his ayris and affspring prays
To help and not to hurt this wark alwayis."

The bronze door-knocker of the Castle is in the possession of John Bruce, Esq. of Sumburgh, and is described by Major W. Bruce Armstrong in the *Proceedings* (vol. iii. New Series, p. 101). It bears the name and arms of Andro Brus, second of Muness.

The records of the Privy Council disclose the following incidents—some of them not very creditable—in Cultemalindie's career, viz. :—

1577, Feb. 23. Signed bond at Holyroodhouse for the due discharge of his office of Admiral-Depute in Shetland.

1577, Aug. 30. Charged with wrongously intromitting with an English ship, the *Marie Galliard*, in Shetland.

1577, Nov. 20. Taken bound to deliver the ship *Mynion*.

1577, Nov. 5. Complaint against by Barthill Strang of Voisgarth, in the island of Unst, for compelling his wife, when he himself was absent in Norway, to pay the Bishop's Umboth duty 3 months before it was due, and for stopping Barthill in August last from going on his voyage to Birroun [Bergen] in Norway, and compelling him to carry him and his company of 24 persons from Shetland to Dundee without payment. Bruce alleged that Strang had asked him to come, and offered to carry him free.

1578, Jan. 30. Lord Robert Stewart, then warded in Linlithgow, grants obligation to return from Shetland within a time specified. His sureties get obligation of relief from Laurence Bruce of Cultemalindie and others.

1578, Dec. 22. Bruce, alleging fear of bodily harm from Laurence, Lord Oliphant, and Laurence, Master of Oliphant, his son, William Douglas of Lochleven becomes surety for the Oliphants. The same day the Master of Oliphant alleged similar fear of Bruce, who in turn provided the security of John Livingston, younger of Dunipace, that the Master should be "harmless and scaithless" of him.

1591, April 3. Caution for £2000 (Scots) granted by Thomas Bellenden, brother of Sir Lewis Bellenden of Auchnoull, for Patrick, Master of Orkney, that he will not harm Laurence Bruce.

1592, Jany. 31. Contentment with the Master of Orkney in respect of a bill for the Indemnity of Bruce, which Bill the Lords ordered to be put in execution.

1597, Dec. 23. Charged, with a number of others, of molesting Michael Balfour of Mountquhany, Sir Andrew Balfour of Strathore, and Michael Balfour of Garth. The parties were bound in caution for 5000 merks.

1609, June 6. Charged, along with others, by the Council, in connection with the troubles of Earl Patrick.

1610, Sept. 6. Order by the Council for the protection of him and others against Earl Patrick.

Cultemalindie, though brought to Shetland under the auspices of Lord Robert, ere long adopted a policy of antagonism to the Stewart earls. In the year 1592 he was a party to a Supplication to the Lords of the Articles complaining of Earl Patrick's encroachments upon the rights of udal landowners in Shetland, among whom he, formerly their oppressor, now pretended to rank himself. At a later date, 12th February 1606, he pursued the Earl in an action before the Court of Session for contravention, because that, as the record expresses it, "after Charge and Caution found, Captain Allan, domestic servant to the Earl, and captain of the ship called the Dunkirk, came to the pursuer, being sailing upon his voyage towards Scotland, and boarded the pursuer's ship, took his household men and servants prisoners, struck and dragged them, and detained them prisoners, took them to land, and kept them in prison five or six days." The case was debated before the Lords on points of law (Morison, p. 16,653), but the final decision is not given.

In Fleming's MS. in the Advocates' Library, quoted by Chambers in the 'Domestic Annals of Scotland,' an account is given of the murder, in the south gate of Perth, of David Toshach of Monyvaird, by Laurence Bruce, younger of Cultemalindie, on 20th June 1618. Four years after this the Privy Council informed the King that old Cultemalindie, besides banishing his two sons and a servant, had offered 1000 crowns by way of assythment to the friends of the slaughtered man, and £2000 (Scots) to two men that had been mutilated. The murderer, Laurence Bruce younger, seems to have been grandson of the original Laurence Bruce of Cultemalindie in Perthshire and Muness in Shetland, whose son Alexander succeeded to the Perthshire property, and appears to have been undone by the

sorrows and expenses caused by the misdeeds of his son. The family ere long disappeared from view in Perthshire, and Cultemalindie is now a farm on the estate of Mr Smythe of Methven.

Andrew Bruce, second son of the original Laurence, succeeded to the Muness Castle property in Shetland. His successor was Andrew, followed by Hector, whose eldest son Andrew was drowned about the year 1700. The succession passed, after two intermediate heirs, to Andrew's uncle, Gilbert Bruce of Clivocast and Muness, who by deed recorded on 28th February 1718 disposed to George Pitcairn, merchant in Lerwick, the whole remaining property of the family, reserving only the liferent of the house and lands of Ramnagoe for himself and his wife. With him the male line of Cultemalindie became extinct, but he left two daughters—Ursula, married to John Scott of Voisgarth, and Marjorie, married to John Gauden of Swinister. The last representatives of the family of Cultemalindie and Muness were the family of the late Gilbert Gauden (or Gaudie) of Skerpoe, by direct descent from Marjorie Bruce and her husband.

IX. Arthur Sinclair of Aith and his Descendants.

Aith, apparently the lands of Aith in the parish of Aithsting, ceased in the early part of the seventeenth century to be known as a territorial designation in the family of the Sinclairs, and Arthur Sinclair of Aith, the leader of the patriots of 1576, and one of the most prominent men of his day, has in that way ceased to be recognised. Some native deeds lately in my hands have made it possible for the first time to trace his lineage as the principal representative in his day of an old Shetland family, the Sinclairs of Houss and Burra. In 1527 William Sinclair of Houss was present in the army of Orkney and Shetlanders at the battle of Summerdale in Orkney, when the Earl of Caithness, at the head of the Government forces, was slain with 500 of his followers. Sinclair was subsequently, with thirty others, respited by King James V.

Arthur Sinclair was son of Laurence Sinclair, designed "of Norbister" (deed of 1560) and "of Sandes" (1587), and his mother's name was Marion Katell. His brothers were Edward, designed "of Scalloway" in 1580, David, James, William "of

Ustanness" (1584), and others. He was married to Margaret Colvine, to whom he conveyed 40 merks of "conquest land" in the Isle of Trondray in liferent as provision for her.

Arthur appears at an early date to have attained to a public position in the islands, a deed of 1572 describing him as "Sheriff of Shetland"; his later prominence in connection with the bringing of Cultemalindie to justice in 1576 has already been noticed. His property, originally only a portion of the paternal estate, seems to have gone on augmenting until he became the head of the family. In 1576 he states in his own complaint against Cultemalindie that "he and his foirbears hes had the tak and rowme of the land lyand in the parochin of Dunrosness extending to xxxii merk land, with auchtein merk land in Ayth." He declares further that he possessed the heritable title to St Ninian's Isle in the said parish of Dunrosness. In 1572 he acquired certain lands in Nesting, &c.; and a charter in favour of him and his spouse, of date 1581, by Lord Robert Stewart, Earl of Orkney and Lord of Zetland, is of 64 merks of land in Burra and Houss, and 2 *lasts* (*i.e.*, 36 merks) in North Ireland in Dunrosness = 100 merks in all.

In 1587 his brothers and sisters made over to him 21 merks in Burra; in 1591 the "toun of Scalloway" was conveyed to him by Nicoll Nicolson, James Nicolson, Katherin Magnus dochter, and Herman Manson, her son. In 1595 he acquired 3 additional merks in the isle of Trondray from Alexander Irving and Margaret Irving his sister; and Alexander Irwein, "mariner and burgess of Kingorne, one of the airis of umqll Williame Irwein of Tronray in Zetland," conveys to him in 1596 1 merk in Cultisweik and 1½ merk in Houlland in Tingwall. Besides these and many other acquisitions, his having been a man possessed of capital is indicated further by his having obtained from Andro Hawik of Scattsta in 1591 wadset of 8 merks of Graven in Delting for 20 "Angell Nobles of gold," and of 8 merks of Wodbester in Tingwall and 2 in Voe, Delting, for 50 pieces of the same; while the purchase in 1600 from Adam Sinclair of Brow, with consent of Helen Bruce his spouse, of 5 lasts (= 90 merks) in Whiteness and Weisdale, is stated to have cost £2000 Scots. On the other hand, in 1592 he sells and dispones to Nicoll Garoche a small piece of ground, 16

feet $\times$ 40 feet, "within the boundis of Scalloway" for a certain sum of money, paid to him, as the deed expresses it, in his "urgent necessitie" at the date of the making thereof. He seems to have been alive so late as 1617, when Adam Sinclair of Brow granted a charter to him of lands in Bressay.

In 1588 Laurence Sinclair, the eldest son of Arthur Sinclair of Aith, obtained from Lord Robert Stewart a disposition of the lands of St Ninian's Isle (Melby Papers), of which Cultemalindie had wrongously seized the rents and duties for the crop of the year 1575. This disposition was probably merely the restoration of the isle to the rightful owner.

Note.—The pedigrees of the family of the Sinclairs of Houss, Aith, and Scalloway, and of their successors the Scotts of Scalloway and Houss, are given in full by Mr F. J. Grant in 'The County Families of the Zetland Islands,' since published (in 1893), and my original researches need not be reproduced further here.

X. Earl Patrick: A Scene in Scalloway Castle, c. 1600.

The castle of Scalloway was built by this tyrannous earl in the year 1600 (as also, no doubt, in preceding and subsequent years). His compelling the natives to labour at its erection, without meat, drink, or pay, is preserved on record as in tradition. The only incident hitherto known connected with the building is the alleged scene between the Earl and Pitcairne, the minister of Northmavine, when the wrath of the former was aroused by the minister's pointing out his enormities, and suggesting an inscription for the doorway which bore an insinuation of the instability of a house built upon a sandy, that is, an unworthy, foundation. The inscription, now much worn, is quoted on page 165. The castle has long been a roofless ruin.

In 'Morison's Decisions,' vol. xix. p. 16,481, under the head *VIS ET METUS*, a case "Earl of Orkney against Vinfra," reported in Haddington's MS. vol. i., No. 1074, is thus quoted, under date 21st February 1606:—

The Earl of Orkney charged Andrew Vinfra to pay to him 2000 merks. He suspended that the Contract was null, because it was

extorted by fear and dead-dome ; because the Earl having caused send this Vinfra to him to his Castle in Zetland, presented to him this Contract subscribed by the Earl, and commanded him to subscribe it, which the said Andrew Vinfra refused, wherewith the said Earl was so offended, that with terrible Countenance and words, and laying his hand upon his whinger, he threatened with execrable oaths to bereave this Vinfra of his life, and stick him presently through the head with his whinger, if he subscribed not, and so for just fear he being compelled to subscribe it, the same was null. It was excepted by the Earl against the reason that the same was not relevant to stay the execution of his decret ; which the Lords repelled, because it was only a decret of registration of the Contract by compearance of a procurator. Next he alleged that the same could not come in the way of exception, especially because there was no fact nor deed libelled, but only boisterous words which could not be thought just fear, chiefly seeing he offered him to prove that the said Andrew Vinfra, by his missive letter, had offered to contract upon those conditions before the date thereof. The Lords found the exception of fear very relevant and sufficiently qualified, but in respect of the answer founded upon the missive letter, they ordained to produce the same before interlocutor.

Nothing further is reported of the case, but it is an interesting record of a characteristic incident within the castle of the rapacious Earl, and of courage on the part of an islander in refusing tamely to submit to the tyrant. It is, moreover, worthy of note that at this period the protection of the law was available against even one so powerful as the Earl, who was obliged, like other litigants, to refer his claim to the Supreme Court, with, as it would appear, only indifferent success.

In the name of the defender we are warranted in discarding a printer's error, and in place of "Vinfra" to read Andrew Vmfra, a name of some historical interest. There is little doubt that this was the Andrew Umfra who conveyed to Dunkirk the shipwrecked seamen of the ship of Admiral Don Juan Gomez de Medina of the Spanish Armada, wrecked in 1588 on the Fair Isle. He was a master mariner, probably owner of his own ship, and possessed of some landed property as well. In 1634 his granddaughters, Jean and Janet Umphray, were served heirs to him, as appears from the following entries in the Retours :—

Nov. 26, 1644.

JEANNA UMPHRAY, *hæres portionaria* Andreæ Umphray nautæ incolæ villæ de Scallowaybankis: *proavi*,—in 27 mercatis terrarum de Berrie: E. 2 *lie leispundis butiri*, &c.—1 ½ mercata terræ in Houll: E. 3 *mercata butiri*, &c.—*feudifimarum*: omnibus infra parochiam de Tinguall et dominium de Zetland. xix. 106.

Nov. 26, 1644.

JONETA UMPHRAY, *hæres portionaria* Andreæ Umphray nautæ, incolæ villæ de Scallowaybankis, *proavi*—in terris prædictis. xix. 107.

The designation here given—sailor, master mariner, indweller in the town of Scallowaybankis—entirely corresponds with what we should expect to be a natural position for the defender. He was besides a person of some realised means, owner of the small property of Berrie, sufficient to incite the cupidity of the Earl.

Though Umfra's male line failed, his succession having been thus taken up by his granddaughters, collaterals of the family have maintained their position in the islands to the present day, *e.g.*:—

1634—Patrick Umphray of Sand.

1697—James Umphray of Voe.

1698—Barbara Umphray, relict of Thomas Cheyne.

1704—Patrick Umphray of Sand.

1708—John Umphray of Asta.

1721—Laurence Umphray of Voe.

1735—Andrew Umphray, dispones lands of Stove to James Mitchell of Girlsta.

1743—Laurence Umphray of Voe.

1772—Lilias Umphray of Stapness.

In 1837 the late Mr Andrew Umphray of Reawick was infest by precept of Chancery as heir of John Umphray of Asta, his great-great-grandfather, in lands in the parish of Sandsting. The lands of Asta (24 merks) with the Holm of Asta, &c., were originally acquired by John Umphray in Scalloway, and Ingane Adamsdochter, his spouse, in 1586. As appears from the Register of the Great

Seal, a Charter of confirmation was granted, on the 4th of October of that year, to the sale of the property to them by Magnus Halcro of Burgh, precentor of Orkney, with the consent of the Bishop.

XI. Slaughter of Matthew Sinclair of Ness, 1602.

No particulars, so far as known, are preserved regarding this event, which took place on the 27th June 1602. Several persons were believed to be implicated, and security to the extent of £100 [Scots] from each cautioner was taken for their appearance at the ensuing Lawting Court, viz.:—

David Leslie	John Niven of Scousburgh, cautioner.
Adam Sinclair of Brow	William Bruce of Symbister, cautioner.
Laurence Sinclair of Gott	Malcolm Sinclair of Quendale, cautioner.
Andrew Nicolson	Malcolm Sinclair of Quendale, cautioner.
William Fermour	Malcolm Sinclair of Quendale, cautioner.
Garthe Hemlein	William Bruce of Symbister, cautioner.

The case accordingly came before the Lawting Court at Scalloy, 16th August 1602, when the following persons were indicted for the crime, viz.:—

Francis Sinclair of Uyea.
 Robert Sinclair, his brother.
 John Bruce, servitor to Adam Sinclair of Brow.
 John Sinclair, son to Laurence Sinclair of Gott.
 Laurence Sinclair, son to William Sinclair of Ustaness.
 John Lindsay, servitor to Robert Sinclair.

These were all found to be “actual doaris and committaris,” and having taken the crime upon themselves, and being fugitive therefor, their whole goods, geir, and lands were forfeited.

The crime appears to have been the outcome of a bitter family feud, and all the parties concerned to have been related. By a separate action, at the instance of Robert Sinclair of Campston and Edward Sinclair of Scollay, on the 23rd day of the said month of August, Adam Sinclair of Brow, who was at first suspected, but is not in the list of those declared fugitive on the 16th, is also found to have been art and part in the slaughter, inasmuch as he the night

before the slaughter gave up friendship with the deceased, and after the slaughter intercommuned with his own servant, the actual doer, whom he also furnished with money and other necessities for carrying him out of the country. The judgment of the Court is recorded as follows :—

Quhairunto the Assyse taking long and mature deliberatioun, be the inspectioun of the chepturis of the law-buik, and practicks of the countrie in sic caices, and the haill premises found lawfullie provin, decernis the said Adam's haill moveabillis guidis and gere, with his haill heritabil landis and possessiounis, to be escheit, and himself beneist the countrie within the space of 15 daies, and gif he beis apprehendit thairefter, to be tane to the heiding-hill of Scalloway-Bankis, and thair his heid to be tane and strickin fra his bodie in exempill of utheris.

Sinclair of Brew, thus implicated and condemned, appears to have been altogether in a bad way at this time. A few days before this he was charged as guilty of wrongous and violent intromission with the goods of a broken Dutch ship, without leave of the owner, or any commission from Earl Patrick's deputes or of the Foud of the parish :—

The Assyse taking this to consideratioun, and trying him to have committit great wrang and oppressioun thairinto, thai all in ane voice decernis the said Adam, with his haill moveabill guidis and gere, in my Lordis will thairfor, in exempill of utheris, reserving place to satisfie the pairtie.

While, as has been stated, no actual details of the murder appear to be obtainable, the above information regarding the incrimination of parties in connection with it are extracted from the Court Book of Shetland preserved in the General Register House. I have elsewhere (in 'Mill's Diary,' Scot. Hist. Society, 1889) printed in full the proceedings of the Court held at Dunrossness, 5th, 6th, and 7th August 1602, at which the case was first brought up. It is possible that further examination of the Court Book, and perhaps also the records of the Privy Council, might furnish information regarding the deed and the subsequent career of some of the guilty ones.

The murdered man, Matthew Sinclair of Ness, in the parish of

Dunrossness, appears to have been a member of the Brew family—a son of that Oliver Sinclair of Brew who was Foude of Shetland when the Earl of Bothwell, Duke of Orkney, came to Shetland in his flight after his parting from Queen Mary on Carberry Hill in 1567. Bothwell was at dinner with Oliver Sinclair when Kirkaldy of Grange and his other pursuers reached the country. By his will, dated 14th February 1570, Sinclair divided his whole lands among his three sons, James, Matthew, and William Sinclair, the second of whom appears to have been the victim of the present outrage. Francis and Robert Sinclair, two of those incriminated, seem to have been his nephews, sons of William Sinclair (of Underhoull in Unst) and Margaret Stewart his wife, daughter to Lord John Stewart, Prior of Coldingham, and niece of Lord Robert, Earl of Orkney. Margaret Stewart was, after William Sinclair's death, married to William Bruce first of Symbister and Sumburgh, who obtained possession of Sinclair's property, and the sons followed their own courses. Implicated in the murder of Matthew Sinclair, and outlawed from Shetland as above mentioned, they fell into evil habits and bad company in Scotland, resulting in poverty, discord, and litigation, as appears from an action in Court at a later date pursued by James Sinclair of Scalloway against Andrew Bruce of Muness. The "Information" for the pursuer, which contains valuable details of local history and discussions on points of local law, is preserved among the papers of the Sheriff Court of Shetland, and a transcript is in my possession.

Garth Hemlein, who appears in the list of those at first suspected of complicity in the murder, was a German merchant, Geert Hemelink of Bremen, who traded between Shetland and the Continent, and appears to have had a trading station, if not a residence, in the parish of Dunrossness, probably at the Pool of Virkie, at that time a rendezvous of Hamburg and Bremen merchants, who carried on a brisk trade 300 years ago, and at a later date, in the export of Shetland fish and the import of Continental goods.

The Earl of Bothwell, on his arrival in Shetland, entered into a contract with Hemelink for the hire of his ship the *Pelican*, and for another ship of a Hanseatic merchant then on the coast. Both ships were taken in command by Bothwell, along with the two

smaller vessels in which he and his party had escaped from Scotland. A copy of the contract between Bothwell and Hemelingk is preserved in the Danish Royal Archives, dated "jnn Schvineborchovett den vofftein denn Augusti nha der gebort Christi 1567"—i.e., at Sumburghhead, the 15th of August, A.D. 1567.

Bothwell, with the *Pelican* and his other ships, after a battle fought with his pursuers off the Shetland coast, was seized in Norway and detained a prisoner, and Hemelingk craved the intervention of the authorities of the city of Bremen for the restitution of his ship and the payment of the hire due to him by Bothwell. Olaf Sinclair of Bru, designed as "Kemener und overste principall van Hidtland," gave a testimonial to Hemelingk's character as an honourable merchant in Shetland, and this, with Hemelingk's petition and the letter from the authorities of Bremen to King Frederick II. of Denmark, is preserved among the public records of that country.¹ We have thus, in the circumstances connected with the murder of Matthew Sinclair, certain side glimpses at the state of life and society in the islands at the time, and likewise at one of the most singular occurrences in the history of Scotland, the flight of Bothwell, the discarded husband of Queen Mary.

About the time of the slaughter of Sinclair, another murder, that of John Ollawson, was committed in Shetland. The case had at first been regarded as one of suicide, as appears from the entry in the Court books, 27th July 1602: "Jhone Ollawsoun, for hanging himself, his guidis and gere escheit." But possession of his worldly goods having been obtained by escheit, another victim for extortion was found in the person of one Gilbert in Futtoun, who, a few days afterwards—viz., on 6th August 1602—was ordained to enter "befoir my Lord [Earl Patrick Stewart] and his deputis at Skalloway bankis the thrid or feird dayis of the Lating Court nextocum to underly the law for the slachter of Jhone Ollawsone under the paine of xl. lib."

XII. Proceedings of Ninian Niven, Notary.

[In the original paper as presented to the Society of Antiquaries

¹ The whole story is told in the 'Life of James Hepburn, Earl of Bothwell,' by Professor Schiern of Copenhagen.

the narrative under this head proceeded upon an unprinted MS. which I came upon among the Privy Council papers in the General Register House. The manuscript professed to set out the "Oppressiounes Tirranies and Falcetis and Cruelties done and committit be Neniane Neving upon the poore Inhabitantis of the Contrie of Zetland." Nothing to throw further light upon the subject was discoverable at the time, but I pursued the inquiry by referring to the proceedings of the Scottish Parliament, to which I found that a counter "Supplication" for James Mowat of Ollaberrie and Ninian Niven was presented in 1641.

In a subsequent communication to the Society, printed in the 'Proceedings' for the session 1892-93, Mr T. W. L. Spence of Uyea very properly pointed out that the document I had presented contained only a one-sided view of the question in dispute, and that in all probability it was controverted at the time. This actually proved to be the case, as was found by Emeritus-Professor Masson, the Historiographer Royal, some years later when proceeding with his editing of the Privy Council Register. In the volume xiv., published in 1898, the whole documents preserved in the Process between James Mowat and Ninian Niven are given in full; and the circumstances, as finally disclosed, are set forth by the Historiographer, in view of the discussion between Mr Spence and myself, in an elaborate Introduction and Note, of quite exceptional interest, dealing not only with the complaints and recriminations between Mowat and Niven, but also with the romantic story of Fru Anna Tronsdaughter, the discarded lady of the Earl of Bothwell. Anna was sister to Else, referred to casually in these documents as "Frow Elspet Tronesdochter," the Norwegian lady whom Andrew Mowat of Hugoland (father of James Mowat) had married as his second wife. See *ante*, "Mortgage or Deed of Pawn of Land in Shetland, 1597." The occasion for printing any of the papers, or for further discussing this curious local feud, is now superseded by the completed publication in the Register of the Privy Council.]

XIII. Settlers in Shetland from Fife.

The Balfours of Trenaby (of the Mountquhanie family), the Traills of Orkney, and the Scots of Melby in Shetland, all claim their

descent from the East of Fife. The name of Beatton in Orkney, and of Spence both in Orkney and Shetland, and others, are also regarded as derivatively from the same quarter, though no record of origin is known. There have been Spences in Shetland from an early period, perhaps from as far back as the time of the mortgage of the islands to Scotland. The town of Crail, at the eastern extremity of Fife and at the mouth of the great firth, seems to have had a good deal of direct commerce with Shetland, particularly in connection with the fishing industry, and the local records give indication of personal intercourse and of settlement there. William Bruce, first of Symbister and Sumburgh, seems to have come from this quarter. He certainly retired to it in his latter days, having married a second time, leaving the Shetland property to his eldest son Robert, and the lands which he acquired in the East of Fife, Nacketfield and in Kingsbarns, to his son Andrew, founder of the family of Bruce of Pittarhie, now extinct. A monument to William Bruce of Symbister is still to be seen in Crail churchyard. A mutilated figure in armour, which has certainly no connection with him, being of about a century earlier, has been set up in the monument.

William Fermor, "burgess of Crail," is witness to a seisin of date 9th June 1619, in William Bruce's favour. One William Fermor, probably the same individual, was active as a notary in Shetland in 1602-1603, when he appears to have been intruded into the office of Fowde of Dunrossness, a post never held, except under force, by any one but a resident native. The name Fermour, or Farmer, is still known in Fife coast towns, and its presence in Shetland in this instance is an illustration of the intercourse and personal connection between Fife and the islands in the sixteenth and seventeenth centuries.

5. THE DANO-NORWEGIAN CLAIMS UPON ORKNEY AND SHETLAND.¹

I am aware that, in general estimation, to reopen the old question of the claims of Denmark upon the British isles of the North Sea is but to attempt to revivify a dead subject. But, whatever practical

¹ Communicated to the Society, 11th April 1887.

value may attach to it as a question of international politics between Great Britain and Denmark, its interest for students of history has not terminated. It is not, however, my intention to argue the question. I am not sure that it would be of any material advantage to the islands that the *status quo*, as now existing, should be disturbed, unless every British impost were swept away, and the fiscal arrangements readjusted on the system formerly prevailing under Scandinavian rule. This, after the lapse of centuries, would be an impossibility. I propose, therefore, to treat the question simply as a matter of historical investigation, by the aid of authentic documents, from Danish and Scottish sources, never previously brought together. At the same time, there is in my own mind little dubiety as to the side of the dispute on which the equities of the case preponderate.

I therefore pass by the long tale of oppression in the islands under Scottish rule, the subversion of the native laws, the imposition of the feudal system upon the odalism of the north, the appropriation of the greater part of the land by adventurers from Scotland—in short, the ruin of the native race.

Let me briefly recapitulate the facts of the impignoration to Scotland before introducing the original material now available in evidence of the reality and persistency of the Danish claim, which Scottish historians affect to regard as lapsed or relinquished.¹

By the contract of marriage between King James III. of Scotland and the Princess Margaret of Denmark, dated at Copenhagen 8th September 1468, King Christian I. of Denmark and Norway (then united) undertook to provide a dowry of 60,000 florins of the Rhine for the bride. Of these 10,000 were to be paid in cash, and the islands of Orkney were pledged for the remaining 50,000 ("quingenta millium florenorum Rhenensium"). The words of the contract are—"damus, concedimus, impignoramus, ac *sub firma hypotheca et pignore* imponimus atque hypothecamus omnes et singulas terras nostras Insularum Orcadensium," &c. The cash payment of 10,000 florins having been forthcoming to the extent

¹ The case between this country and Denmark was briefly but forcibly stated by my countryman, Mr Arthur Laursen, in an article in 'Macmillan's Magazine,' No. 184, February 1875.

only of 2000, the Danish king, on the 20th May 1469, pledged Shetland, in the same way, for the remaining 8000 florins.¹ In the contract the right of redemption is expressly reserved by the stipulation that, on the payment being discharged, the isles should revert to the kings of Norway—"terræ insularum Orchaden. regi nostro Jacobo inpignoratæ ad Norvegiæ Reges revertentur." No limitation is fixed for the time within which the redemption must be claimed.² Such are the simple facts of the impignoration, pawn, or *wadset*, then and later a customary form of heritable security in the law of Scotland as in that of Denmark.

According to the continuator of Hector Boece, the right of redemption was renounced by the Danish king on the birth of his grandson, James IV.³ Sir Thomas Craig repeats this story of the alleged renunciation as having been settled by the treaty between James IV. and King Christian II. confirmed by the Pope.⁴ Sir George Mackenzie also refers to it,⁵ as does Chalmers;⁶ and Pinkerton asserts that the right of redemption is now lost.⁷ Buchanan, confounding Orkney and Shetland with the Hebrides, says that their cession to Scotland was made complete and perpetual—"Danum omne jus suum in perpetuum cessisse."⁸ Sir James Balfour, in his 'Annales,' affirms that "amongst the conditions of the marriage one was the Danish king's renunciation of all right or claim that he or his successors could claim for ever to the Isles Orcades and Zetland."⁹ Better informed, Aber-

¹ The value of the 58,000 florins has been computed at about £24,000 sterling.

² The deed, "Exemplum Contractus matrimonialis inter Serenissimum Scotiæ Regem Jacobum Tertium et Serenissimam Principem Margaretham Potentissimi Principis Christiani Primi Daniæ Norvegiæ et Sweciæ Regis filiam," is given in full by Torffæus.—'Orcades seu Rerum Orcadensium Historia' (Havniæ, 1715), liber ii., and is transcribed in Barry's 'History of the Orkney Islands.'

³ The continuation of Boethius by Ferrerius, printed in Paris in 1574, pp. 388, 389. The original work was brought down to the accession of James III. only.

⁴ Craig, *Jus Feudale*, lib. i. dieg. 14.

⁵ Mackenzie, *Observations on the Statutes*, p. 234 (edition of 1716).

⁶ George Chalmers, *Caledonia*, vol. i. p. 345, note.

⁷ Pinkerton, *History of Scotland*, vol. i. pp. 266, 267.

⁸ *Rerum Scotticarum Historia*, auctore Georgio Buchanano, Scoto, apud Alexandrum Arbuthnetum, Edinburgh, 1582, lib. xii. sec. xxvii.

⁹ *Annales of Scotland*, by Sir James Balfour, vol. i. p. 194.

cromby, writing at the beginning of the eighteenth century, states that the islands were made over "with express provision that they should return to Norway after complete payment of the whole sum for which they were pledged;"¹ but Scottish writers, as a rule, adopt the earlier misrepresentation of the facts, for which no evidence has been offered.

It is true that the Scottish Crown speedily showed its aim and object to be the permanent possession of the islands. *So great a jewel of their Crown* (as they were termed in the Act of Parliament, Charles II. c. 19, 1669) was not to be readily parted with, and the acquisition of the ancient Earldom from Earl William St Clair, by deed of excambion in 1471, gave the Crown an important heritable interest in the islands over and above the temporary sovereignty conveyed by the contract of marriage. But the natives did not regard the impignoration in the same light. They still looked to Norway as the mother country. They continued for some time to advocate causes, not to the courts of law in Scotland, but to courts with which they were more familiar in Norway; and the native system of law and justice, of udal succession and udal tenure of land, survived in some measure, through determined efforts at repression, for at least a couple of hundred years later.

Apart, however, from any speculations on the merits of the question from the Scottish point of view, there can be no doubt as to the attitude of Denmark in the past, and the persistency with which her claim to the redemption of the islands has been asserted. As pointed out in detail by the historian Torffæus, formal representations by letters to the Scottish Court and to the sovereigns of England and France, and on more than one occasion by special embassies, have been made in 1549, 1550, 1558, 1560, 1585, 1589, 1640, and 1660, and other intermediate years.

We shall look in vain to the historians of Scotland for accounts of these representations. It is true that no appreciable result in history followed, and there may therefore be a shade of justification for the circumstances being ignored, whether from ignorance or by design. There is fortunately, however, no lack of details, from Danish

¹ The Martial Achievements of the Scots Nation, to the Year 1514, by Patrick Abercromby, Edinburgh, 1715.

sources, regarding these international representations; and I shall be able to show that there are also ample accounts to be traced in contemporary writings preserved in this country.

The Danish historian Thormodus Torffæus, whose great work the 'Orcades' has already been referred to, devotes an entire chapter or book to the question of the Danish claims. The chapter (liber iii.) is entitled "Concerning the unceasing efforts of the most potent Kings of Denmark and Norway for the pacific restitution of their rights to the Orkneys and the adjacent Shetland."¹ Torffæus states, in reference to the representations made in 1560, that on the 23rd of October of that year King Frederick the Second addressed a letter to the Government of Scotland, requesting the restitution of the Orkneys, and offering the redemption money. The letter, according to him, was in no respect special, and he therefore refrained from transcribing it. As, however, it is still preserved in this city (Advocates' Library, Denmylne MSS. 33, 1, 11), its text may be given (in translation from the Latin), attention not having been previously directed to it in connection with the present subject:—

Frederick Second, by the grace of God, of the Danes, Norwegians, Vandals, and Goths, King, Duke of Slesvig, Holstein, Stormaria, and Ditmarsh, Earl in Oldenburg and Delmenhorst:

Greetings, and kind readiness to please: Most illustrious Princes, Cousins, and our dearest friends, it hath been told to us that between the most Christian King of France, &c., and your Highnesses, and so the Scottish nation, concerning conditions of peace, it hath been nearly concluded: and that for some time past, upon reconciliation being made, there hath been a cessation from arms, which, indeed, to us was very pleasing, as we judge this to tend to the common tranquillity and peace of the Christian world: And we pray God, whose singular benefit we reckon this to be, to grant that those bases of peace now happily laid may, by firm and sincere concord, be preserved even to the most distant time.

While however matters are so, we wished in a friendly way to remind

¹ "De indefessis potentissimorum Regum Daniæ Norvegiæque studiis jus suum in Orcades adjacentemque Hetlandiam pacificè repetendi." The translation of this chapter, or indeed of the whole work, would be an invaluable contribution to the history of Scotland.

your Highnesses that the Lordship of the Orkney Islands, which now for some time your nation holds, belongs to us and to our kingdom of Norway. For our illustrious predecessor, King Christian First, when he gave his only daughter Margaret in marriage to James, then King of Scots, &c., fixed part of the dowry of fifty thousand Rhenish florins, and until that should be paid he appointed that the said Islands should in the meantime be retained by you in pledge, reserving, nevertheless, to himself, to us, and the other successors, kings of the kingdom of Norway, for ever, the powers of redeeming the same by the sum stated. This we can prove to have been so agreed by the letters executed in that matter, and, besides, we deem it not unknown to your Highnesses.

But now it is of the greatest importance that these Islands be at length, after so many years, restored and added to our kingdom; and we to this end do not decline payment of the money due; and, therefore, we in loving manner request your Highnesses that together you do your endeavour, and cause these said Islands to be delivered up and restored to us, in return for the payment of the money due, which we offer. This indeed is just, and this also would bring to pass without doubt, that the more we shall be united in nearer bounds, so the more secure peace, alliance, and goodwill shall thereby be cherished and increased between us on both sides, together with mutual intercourse of our subjects. For the establishing of which state of things, we to our utmost will not be wanting, deeming that the wishes of your Highnesses are not averse from the equity and justice which we ask.

And now with this our servant, whom for this cause we have sent as ambassador to your Highnesses, we expect, in friendship, your answer in this matter; wishing to pleasure your Highnesses as much as may be, and faithfully praying for good health and all the best things to the same. From our Cimbrian hunting seat, the twenty-third of the month of October in the year after one thousand five hundred the sixtieth.

FREDERICK, KING.

To the most illustrious Princes, Cousins, and our very dear friends
the Lord James, Duke of Hamilton, Earl of Arran, and the other
Governors of the Kingdom of Scotland. (National MSS. of Scotland, part iii. No. xlv.)

There is, unfortunately, a gap in the Register of the Privy Council of Scotland, extending from 21st January 1553 to 4th September 1561, a tumultuous and excited period in Scottish history. There is therefore, so far as I am aware, no record in this country of the

reception which the communication from the Danish king received. It is possible that the reply may be preserved in the archives of Denmark ; but under any circumstances, the letter itself remains its own best evidence.¹

The next and principal point which I wish to illustrate is the embassy to Scotland in 1585, twenty-five years after King Frederick's letter, again to urge the claim of redemption. It arrived nearly three years after the death of Buchanan, and is, of course, not referred to in his History. Sir James Balfour, in his 'Annals,' makes no mention of it under the year 1585. It is barely alluded to by Maitland, but was known to Tytler and to Burton, who, however, give no details. We must, therefore, look for information to other sources. On the 4th May 1585 the despatch of the embassy was announced to the Queen of England (Elizabeth) in the following letter, extracted from the Royal Archives of Denmark. It is not quoted by Torffæus.

FREDERICHSBURGI 4 Maij anno 85.

Ad reginam Angliæ, &c.

Christian First, our great-grandfather, of most blessed memory, in the year of Christ 1468, pledged the Orkneys, a part of our Kingdom of Norway, to James III., King of Scotland, by way of mortgage, for a certain sum of money, with this condition that at whatever time, the debt being paid, the redemption of the pledge being accomplished, they might be redeemed by the said King Christian or any of his successors. But although an attempt was made to recover them by Christian III., our illustrious father, and even by ourselves some years ago, nevertheless the governor and councillors of the kingdom urged in excuse partly their own occupation in operations of war, and partly the minority of the queen, as the cause of the restitution being hitherto always deferred. Now therefore we, offering anew the required sum, demand, as in duty bound, that these islands, which are acknowledged indisputably to form part of our kingdom, should be restored to us. For which cause we have despatched to the King of Scotland councillors of our kingdom, as ambassadors and pleaders (*oratores*). But as we are not clearly informed what are the relations between your Majesty and the King of

¹ A few years later than this Bothwell, "Duke of Orkney," in his Second Declaration, emitted at Malmoe 13th January 1568, states that, in his departure from Scotland the previous year, his object was to solicit the aid of the Danish King, with the offer of the surrender of Orkney and Shetland in return.

Scotland at this time, and what the position of affairs is, and lest your Majesty may think that this is done by us from some other motive than that we have stated, we have thought it proper to signify to your Majesty the design of this embassy. Offering to your Majesty all devotion and goodwill and brotherly love.

The despatch of the embassy is thus described by Torffæus :—

In the year 1585 a splendid embassy was directed to Scotland, under the charge of illustrious men, councillors of the kingdom of the highest rank, Mandrupius Passberg and Henricus Belovius, with whom was conjoined Doctor Nicholaus Theophilus, bearing despatches, dated 4th of May of that year, to the King of Scotland, in which the whole course of the demands for the islands, brought down to that time, was concisely restated.¹

Torffæus then relates the reception of the ambassadors, the account they submitted of the history of the mortgaging of the islands, and of the subsequent efforts made to close the transaction, urging the equity of his Danish Majesty's demands, and finally offering the redemption money, quoted as 50,000 florins. The arguments and excuses brought forward by the Scottish court are given at considerable length, with the evasive reply, and the fruitless return of the embassy.

Another Danish historian, Peder Hansøn Resen, relates the story similarly. I translate from the original :—

Early in spring the king began seriously to take up the long-protracted business of the redemption of the Orkney Islands and Shetland. He appointed his embassy in two ships, the *Fortune* and *St Michael*, with costly equipment ; and directed Mandrup Parsberg, Henrik Belou, councillors of the kingdom, and Doctor Nicolaus Theophilus, to Scotland, to King James the Sixth, to offer the promised marriage tribute (*udlovede Brudeskat*), and in the most neighbourly and friendly way to demand and request again the forenamed land and isles. They sailed from Copenhagen the 13th May, and reached Edinburgh on the 15th June. They were at first received there, and thence conducted to the King, who was at Dur-ferlin [Dunfermline], where they obtained audience of his Majesty, in the presence of many of the council of the kingdom of Scotland, on the 20th of June. Dr Nicolaus, in a brilliant and comprehensive oration, set forth the whole business and transaction,

¹ Orcades, liber iii. p. 217.

how the said isles and land were pledged by King Christian the First, for a portion of the marriage tribute of his daughter the Lady Margaret, to King James the Third, and in the time of subsequent kings had often been claimed for redemption. He requested that the money might be received, and the said islands be again delivered over to the King and nation. Whereupon, after some days' deliberation, it was in the most friendly way given for answer that the time, on account of several hindrances and difficulties, was too short and very inconvenient; neither were all the councillors of the kingdom at hand, nor so ready to be convened or bespoken. So his Majesty could not at present so hastily give a final answer. The Scots had besides other more complicated affairs to discuss with their gracious Lord, and would therefore as soon as possible despatch their own embassy to his Majesty, and would then further discuss this and other matters.¹

It is a singular fact that the Register of the Privy Council of Scotland contains no reference to the important incident of this representation from the Danish King. The Court were away from Edinburgh on account of the plague. The Council met at Holyrood on the 8th of June, and at Dunfermline on the 18th and 23rd of that month; passing on to Falkland, where several meetings were held in July, two meetings being held thereafter at the close of the month, on the 29th and 31st, at St Andrews.

While the Register of the Privy Council is unaccountably silent, there is no lack of contemporary evidence to substantiate the Danish accounts which have been quoted. There is noted in the Calendar of English State Papers relating to Scotland a letter from Robert Carvell to Sir John Forster, dated at Dunfermline, 22nd June, the subject of which is "a claim made by the Danish ambassador to the Isles of Orkney and Shetland"; and the wily Wotton, the English ambassador, addresses a letter to Sir Francis Walsyngham on the same subject, also from Dunfermline, on the 27th of the month.² But the fulness of the following details from Scottish sources leaves nothing further to be desired.

¹ Kong Frederichs den Andens Krönicke, Kiöbenhaffn, 1680, pp. 338, 339. For this extract and also the letter to Queen Elizabeth, quoted above, I am indebted to the friendly aid of Dr Troels Lund, Copenhagen, a high authority in Danish history.

² Calendar of English State Papers relating to Scotland, vol. i. pp. 498, 499.

I. *Moysie's Memoirs.*

Upone the tuelt day of Junij 1585, the King of Denmarkis ambasadouris thrie in number, quhairof ane wes a doctour of the lawis, and the uther twa speciall men, come to Scotland and arryved at Leithe; propper men weill cled efter thaire owin faschioun; they wer in trayne four scoir personis, tuelf thairof in gold chenyeis. They come to Dunfermling within four or fyve dayis thereafter to the King, quhair they had presence and dischairgit thair Commissioun, quhilk wes that they desyred to redeime Orknay and Chetland, under reversioun as they alledgit of ane certane soume of mony, quhilk they had rady to consigne instantlie. The Kingis Majestie, with advyse of his Counsall at St Androis, thereafter gave thame this ansuer, That there was no such reversion knawin to thame, bot they sould try and send ansuer schortlie with there awin ambassadour. So they tuik journey at Dundie, and wer feasted at St Androis.¹

II. *Historie and Life of King James the Sext.*

1585. "The King in this yeir was becum a brave prince in bodie and stature, weill exercisit in reading that he could perfyttlie record of all things that he had aither hard or red; his memorie and jugement war becum verie ryp and fyne. Therefore that noble King, Frederic the Second, King of Denmarc, finding sik opportunitie and occasioun be the credible report of famous gentilmen and marchants of Scotland, to congratulat the gude estait of our King his confederat, he essayit him twa wayis, be his renownit Ambassadors sent in Scotland in the month of Julii 1585. The first way was, that he proposit be his ambassadors that the Ilis of Orknay and Zetland war bot lent from the crown of Denmarc for the debt of a soume of money awin to the crown of Scotland; and for the redemption of thayme, thay had the money presentlie to rander to the King and his estaits for laughfull restitution and repossession, &c. The other way was"—(in brief, a suggestion of marriage of one of the King of Denmark's daughters to King James, which was eventually accomplished). "To the first, it was answerit that becaus the playg of pestilence was then verie vehement in Edinburgh, his capital parliament toun, and that tharein all his writtis whatsumever did ly, and thareunto thair was na sure acces, therefore the King besoght the ambassadors to tak in patience for that tyme, for

¹ *Memoirs of the Affairs of Scotland*, by David Moysie (Writer and Notary Public in Edinburgh), 1577-1603. Printed at Edinburgh for the Bannatyne Club, 1830. Previously printed by Walter Ruddiman, at Edinburgh, 1755.

he sould send an ambassador of his awin, with the first commoditie, who sould give a resolute answer in that purpose" (and likewise as to the second point, the projected marriage). "With these ansuers the ambassadors wer exceding weill contentit, and departed from Scotland in the moneth of August with great joy."¹

III. *Memoirs of Sir James Melville of Halhill.*

1585. "About this tym, the Quen of England, be hir intelligence from Denmark, was advertist of a gret and magnifik ambassade send be the King of Denmark in Scotland; thre ambassadours, with a sex score of personis, in twa brave schippis." So Elizabeth sent Mester Wotton "to use all his wyles" to prevent any greater amity between the Kings of Denmark and Scotland and their respective countries. "Sa schone as the Dense ambassadours arryvit be schip in this contre, his Majestie ordanit me to bear them company. Ther names wer, Manderupius, Henrych Bello, and Doctour Theophilus; the first twa wer consellours. First at Domfermeling they congratulat his Majeste in the King ther masters name, with a lang discours of the auld amytye, band and mutuall frendship between the twa Kingis and their kingdommes. And last of all, they requyred the ylles of Orkeney to be restored again to the Crown of Denmark, allegit be them to ly in wedset, to be redeemed again for the sowm of fifty thowsand florins.

Ther commyng and demandis was dyversly skancit upon; some supposing warres suld ensew, onles the saidis ylles wer not renderit; others thocht that ther intentions was, to bring on a marriage with the King of Denmarkis dochter.

Now albeit his Majestie was determinit to trait them weill and honorably, they wer nevertheles mishandled, ruffeled, truffelit, drifted, and delayed heir the space of monethes, to ther gret charges and miscontentement. For they lyved upon ther awen expensis, and wer not defrayed be his Majeste, as all other ambassadouris of that nation hes bene sen syn.

When they wer apponted to part out of Domfermeling towardis St Andrewes, ther to get ther dispatche, his Majeste ordonit to tell them that he suld send them horse out of the court to ryd upon. The day of ther parting being com, they send away ther bagage and officers

¹ The Historie and Life of King James the Sext, being an account of the affairs of Scotland, from the year 1566 to the year 1596, with a short continuation to the year 1617. (Author unknown.) Printed at Edinburgh for the Bannatyne Club, 1825.

before them, and wer buted themselves, tareing lang upon his Majesties horse; quhilk because they cam not in dew tyme, they tok ther journey forward upon fut. His Majeste was very discontent, when he understod how they were handled, and caused his horse to folow fast efter them and overtak them. Then at ther being in Santandrowes, dyvers appointed dayes of consaill and convention wer broken unto them, quhilkis wer promysed to be keped for ther dispasche, quhilk they suttid continowally for to get. Then men wer appointed to skorn them at ther lodgings, and before ther windowes, when they loked out to the streit; sa that nathing was left ondone that mycht annoyne them or kindle them up in choler. Only Mester Wotton the Englis abassadour vesited them oft, and bur them gud company, and comforted them at all occasions, seamyng to be sory that they wor sa misused; and offerit to lend them gold and silver largely, for the gret frendship that he knew to be between the Quen his mestris and the King of Denmark. For he was assured of gud payment, and thocht to conkis credit at ther handis be his apperant frendly deling. At lenth, under gret secret, he said he wald not hyd from them, how that he had hard the King speak disdanfull language of ther contre and customes; and also that some of his gentilman had hard the King speak evell of ther King as com of the race of merchandis; and that he and his consaill wer myndit to hald them lang heir, without any dispasche, to fasche and tyre them.

Then again the said ambassadour, and twa of his gentilmen, in-fourmed his Majeste of ther hard speaches of the reprochefull dealing of the King and consaill towardis ther maister, and also of ther rud manners, doldnes and dronkeness; and wer fortified and assisted be sic as wer about his Majeste, wha held the lyk scornfull langage of the King of Denmark, his contre and ambassadours: moving his Majeste to mak the les accompt of them. Wherby they wer sterit up in sic a rage as I had na litle a do to perswad them in the contrary, and to stay them from stealing away tua severall tymes to ther schippis, to have returnit to ther King without any further answer, and to report of the gret lichtly and disdane and injury quhilk they said planly wes done unto ther King and contre.

The principall of the thre ambassadours was a wise, grave and ancien consellour. Henrich Bello wes furious in his speaches; and the doctour cryed out, "The King our mester is injuried and wilbe revengit."

Then I took Manderupius apart, and requested him to heir me patiently, for he spak gud Dutche [German], bot myn wes not sa

gud, therefore that he wald tak better tent to my meanyings, nor til any wrang word."

(Melville then explained to Manderupius the sinister motives of the English Court and the ambassador Wotton, in their interference with the projects of amity with the Danish King, upon which the ambassadors, after long conference, consented to remain for a time to pursue the matter further. Melville then proceeded to explain to the King in the same way, clearing away, among other things, the imputation that had been conveyed to James that the King of Denmark "was com bot of marchandis, and that few maid accompt of him or his contre bit sic as spak the Dutch tong." Melville showed the highly respectable origin and connections of the Danish sovereign, to whom James himself was related, and then proceeds)—

"And wheras he requyres again the ylles of Orkeney, for the discharge of his aith, because every King of Denmark at his election, that is ane of the articles that is presented unto hym be the estaitis to swer, to claim again the saidis yles; quhilk he hes done for the fassion, and til na uther effect bot to draw on a gretter famyliarite and frendship, or elis he had not send sa honnorable a company, bot rather a harrauld of arms, gif he had been earnestly bent other to get the sayd yllis, or to discord and feicht for them."

(The King was mollified by his discourse, and ordered a banquet to be prepared for the ambassadors, and every honour to be done to them, though Wotton and his abettors tried to thwart this being done. His Majesty "raise from his awen denner, and past to the banket house, and drank to the King, the Quen, and ambassadours of Denmark; and sa contented them ay the langer the better, and caused ther dispasch to be in a rediness conform to his promyse." A chain ("a great chengnze quhilk weyed a vij^e and fifty crowns") was procured and presented to the ambassadors, along with their "answer in wret," and they departed highly satisfied, assuring Melville that "they suld be gud instrumentis of amytie.")

"Albeit be evell using they wer anes myndit to do otherwayes; and that their commission tended not to discord bot to bring on greter friendship. Nether war they commandit to speak of mariage, wherof ther was a vain bruit; thoch the King ther maister had fayre dochters, any of the quhilkis being suttet, as is requisit that gentilwomen be, they supponit the clame of Orkeney suld ga rycht."¹

¹ Memoirs of his own Life, by Sir James Melville of Halhill, 1549-1593. From the original Manuscript: Printed at Edinburgh, for the Bannatyne Club, 1827, p. 335 *et seqq.*

IV. *The Annales of Scotland.*

The coming of this embassy "in the moneth of Junii" 1585 is also related by Balfour in the 'Annales.' If the marriage betwixt King James and the princess of Denmark were refused, then was the ambassador instructed "to demand the Isles of Orknay and Zetland, conforme to a reversione granted to the Kingis of Denmark by King James the 3rd."

The embassy is thus not only sufficiently authenticated from contemporary Scottish sources, but it was also at the time matter of notoriety in political circles in Europe. The following reference to it is contained in a letter from Bernardino de Mendoza, the Spanish ambassador at London, to his master the King of Spain, of date 11th September 1585:—

"The Danish ambassadors had arrived, but the King had deferred receiving them, as the rumour was current that their mission was to ask for the cession of the Orkney isles and Shetlands, which long ago belonged to the Crown of Denmark, and had been pledged to Scotland; and, if the embassy met with a good reception from the King, they were empowered to treat of his marriage with the daughter of their master."

I have been thus particular in giving the details of this embassy, because it is of supreme interest as evidencing the feeling and attitude of the Danish Government on the question at the time. Nor is apology offered for reproducing the particulars, because they have never been given by Scottish historians, and the MSS. in which these Scottish accounts of the embassy occur are printed privately as club issues, and are not readily accessible.

It does not appear from Melville what was the precise answer given to the Danish ambassadors. It was certainly evasive, with promises, as we know from other sources, of a definite answer by-and-by. According to Melville, "Mester Peter Yong, mester almowsser to his Majeste," was shortly after sent to Denmark "to thank that king and to see his dochters, that he mycht mak report again of his lyking of them; with a promyse that his Majestie suld

send thar or it wer lang ane honnorable ambassade.”¹ Meanwhile the Scottish Court dealt with the islands as if their sway over them was undisputed. But the question was still in agitation. The project of marriage between James and the Danish Princess was taken advantage of as an excuse for delay, and while it hung in the balance it also restrained the urgency of the Danes, who could not afford to trifle with, or offend, so promising a suitor. In the Act of the Scottish Estates, 8th July 1587, a commission was appointed “for the taxation to be grantit quhen it sall pleis that our soverane lord sall treat and conclude opoun his mariage.” The commission consisted of the Earls of Angus, Huntly, Crawford, Marischall, Montrose, and Rothes; the Archbishop of St Andrews; the Bishops of Dunkeld, Brechin, and Orkney; the Commendators of Deer and Newbattle; and the Commissioners of the burghs of Edinburgh, Perth, Dundee, Aberdeen, St Andrews, and Stirling. These were empowered also “to heir, treat, detemyne and conclude in the mater of the ansuer to the petitions of the King of Denmark anent Orkney,” to have the same effect as if done by the whole three Estates in Parliament.²

The marriage with Anne of Denmark was solemnised in 1589; and in 1592 Parliament passed a “Ratification of the Earl of Merchellis proceedings in Denmark direct to treat the mariage betuix the King and Queen’s majesties and of his infestments.”

¹ Peter Young, the master almoner, was accompanied in his expedition to Denmark, in 1587, by Sir Patrick Waus [or Vans], the laird of Barnbarroch, who records in his Journal that they were courteously received, and a Doctor Paspelay assured them in the King’s name that “gif we haid ane guid anser to geif anent Orknay he douittit nocht all uthir thingis we had ado or wald requeiyr of the Kingis majestie suld be verrie thanckfullie ressavit and wald be grantit” (Correspondence of Sir Patrick Waus of Barnbarroch, Knight, 1540-1597, Edin., 1882, p. 397). When it came to the point with the King himself the next day, the Scottish ambassadors pleaded that “as for the mater of Orknay we had na commissione thairof; bot at the tyme appointit, quhilk as yet was nocht cumyn, we douit nocht but the samin suld haif anser as appartenit, and thairfoir at that present we had na commiissione to traitt thairof” (ibid., p. 398). The Danish King was shrewd enough to regard all this as “but fecles dealing, and dryving of tyme, and faire langage without any power to conclud,” and the ambassadors returned with small result.

² Acts of Parliament (1587), vol. iii. p. 437.

From this it appears that in 1589, at Upslo in Norway, in the matter of an "Attestation anent the iles of Orkney," it was settled "that all further claim or repetitioun of the foirsaidis iles upon quhatsumever predendit richt or interesse allegit thairto be that croun [Denmark] salbe supersedit and continuit for thair pairtis unto the said electit princes perfite aige," the then king, Christian IV., being in minority.¹ This agrees with the testimony of Torffæus, who relates the circumstances; but the text of the agreement (in Latin) between the two countries is given in full in the Register of the Privy Council. It is dated at Helsingborg, the 20th August 1589, and is indorsed "Copy of the Testimoniale gevin be his Hienes and ambassadouris to the Regentis of Denmark, anent Orkney." It is here declared that the question of the claims should remain open to the sovereign of either country, and that the delay should cause no prejudice to either: in the meantime that the King of Scotland should be left in undisturbed possession on that condition. The terms of the condition are thus expressed: "*Ita tamen eaque conditione, ne hæc suspensio seu moræ indulgentia juri quod Daniæ et Norvegiæ reges in dictas Orcades insulas præ-tendunt ulla ratione præjudicare vel possit vel debeat, sed utrique parti jura sua sarta tectaque et illæsa, non minus ac si hæc suspensio nunquam intervenisset, conserventur.*"²

With this important convention, at which the conservation of the claims by Denmark was so explicitly recognised, the question passes finally from the politics of Scotland, and becomes an imperial one, King James the Sixth having ascended the throne of the United Kingdom fourteen years later.

According to Torffæus, Christian IV. visited James in England in 1606 and 1614, when James prevailed upon him to allow the Orkney question to stand over during their reigns, as was formally agreed to by the Treaty of Steinberg, 20th July 1621. The same author relates that in 1640 the claim was renewed by Danish representatives in England, who again offered the money payment or a military contingent to aid King Charles I., but the proposal once more fell through in the troubles of that sovereign. At the restoration of Charles II. in 1660 a Danish embassy, sent to congratulate

¹ Acts of the Parliament of Scotland (1592), vol. iii. p. 566.

² Register of the Privy Council, vol. iv. p. 824.

him on his succession, again respectfully claimed the restitution of the isles, when the English, having nothing to fall back upon but prescriptive holding, allowed the negotiations to fall aside.

The claims were dealt with once more at the Treaty of Br da in 1667, when the Danes again urgently demanded the restitution. The English plenipotentiaries pleaded no instructions, and it was decided that the matter should be left open, with this stipulation, "That the suspension of the restitution of the foresaid islands should be without prejudice to the most serene and mighty King of Denmark and Norway, whose claims to recover them should not suffer thereby, but should continue entire, unenfringed and open, until a more fitting opportunity should arise."¹

Again, and for the last time, the restitution of the islands was demanded by King Frederick V., in the middle of the eighteenth century.

Burton, who barely alludes to the embassy of 1585, or to the repeated demands by Denmark for the settlement of the question, remarks that it has been a subject fertile in ingenious speculations in international law, whether, if payment of the dower of the Princess Margaret should at any time be offered, Britain would be bound to restore the islands; also how much must be paid, and what Government is entitled to redeem the pledge. In regard to the last point, it may be held as settled that the right of redemption under existing arrangements remains with Denmark, because when Denmark and Norway were disjoined in 1814, Denmark retained the islands of the North Sea, which may be held as including all rights of reversion to Orkney and Shetland.

6. THE FOUDS, LAWRIGHTMEN, AND RANSELMEN OF SHETLAND.²

The Fouds, Lawrightmen, and Ranselmen constituted the machinery of local government and justice in every parish in Shetland. Coming down from a period of undefined antiquity, those Parish

¹ The words of the condition, as given by Torff us, are: "Ut suspensio restitutionis dictarum insularum, citra prejudicium Serenissimi et Potentissimi Dani  Norvegi que Regis fieret, ne quidquam eidem pr tensioni hoc ipso derogaretur, sed eadem integra infracta patensque persisteret, donec melior occasio pr beretur" (Orca es, liber iii.)

² Submitted to the Society of Antiquaries, 14th March 1892.

Fouds lingered on, latterly disguised by the Scottish appellation of "Bailie," until well into the eighteenth century; the Lawrightmen seem for the most part to disappear from view towards the close of the sixteenth century; and the Ranselmen, though some of them survived to our own day, are perhaps without a single representative now living.

1. The Fouds.

Etymologically the Foud is the *Fögeti* of the Old Northern (or Icelandic) tongue, the *Foged* of Norway. That country at the present day contains eighteen counties or *Amts*, each *amt* divided into bailiewicks, termed *Fogderier* or Foudries, in the same way as Shetland was designated a "Foudrie" in the olden time. Each of these *Fogderier* or Foudries is presided over by the *Foged*, or Sheriff. The *Foged*, who is appointed by the king, is intrusted with the maintenance of law and order, the carrying out of judgments, and the collection of the revenues of the Crown. No more accurate definition than this could be given of the duties and responsibilities of the Great Foud of Shetland up to the close of the sixteenth century.

The spelling of the term varies. Sometimes it is *Foud*, *Foude*, and *Fowde*; occasionally *Fold*, *Fould*, and *Feald*. A pretty reliable indication of the pronunciation is found casually in a letter from Sir Nicholas Throckmorton, English ambassador at Edinburgh, to Queen Elizabeth, when he refers to the "principal man of the isle" [Shetland] "called *Fogge*," which is as near as may be to the modern pronunciation in Norway.

While the Great Foud was the chief civil official, a functionary termed the "Lawman" held the important office of legal adviser and judge of assize, and had generally the superintendence of the framing and interpretation of the law. The Foud derived his authority from the Crown, or those representing the Crown, but the office of Lawman was apparently elective. Nicol Reid of Aith, in the island of Bressay, who was "elected" as "Lawman-General of all Zetland in the Tingholm of Tingwall" on the 27th July 1532, was probably one of the last, if not the last, of these native officials.

There is no explicit definition of the powers and duties of the

PARISH FOUDS left to us from the era of Scandinavian supremacy in Shetland; but, from a document of the transition period when the Scottish system was beginning to be forced upon the islands with the strong hand, we obtain a sufficiently clear view of their functions as then recognised. This document is the record of the trial at Tingwall, in 1576-77, of Laurence Bruce of Cultemalindie, Great Foud of Shetland, who received that appointment from Lord Robert, first of the Stewart Earls, in 1571. In this record¹ the Under Fouds and their duties come frequently into view. They themselves had received their appointments from previous Head Fouds, but many of them now incurred the displeasure of Cultemalindie, and deprivation of their office when they did not fall in with the requirements of his misrule usually followed.

To trace their duties somewhat in detail:—

The butter, oil, and *wadmell* (a coarse, native-made cloth) in which the rents and duties were paid, after having been weighed and measured by the Lawrightman on behalf of the people, were delivered to the Fouds, “swa that baith the Fowde and Commownis gat just mesour and wecht, without hurt, fraude, or gyle.”

An approved *Bysmar* for weighing was kept, usually bearing the mark both of the Foud and of the Lawrightman; and merchandise exposed for sale was valued and priced “be the Fowde, and certain honest, discreit men of the cuntrie quhilk knawis the lawis, consuetudes, and pryces, bayth of the cuntrimentis wairis and merchandis strangearis resortand thair.”

It was the duty of the Under Fouds to hold periodical Courts in their respective districts, and also what were called *Shuynd* Courts for the division of the estates of deceased persons among the heirs. As it is quaintly expressed in the record: “It is the use and consuetude of the countrie quhen ony man or woman deceisses, haveand landis, guidis, or geir, to be divydit amangis the airis, the Underfowde (quhilk is the Bailie of the parochin or yle), accompanyt with certane honest nichtboris, comes to the principall houss quhair the persoun deceissit, callit the Heidbull, for making of the division of

¹ Oppressions of the Sixteenth Century in the Islands of Orkney and Zetland: from Original Documents. Presented to the Maitland and Abbotsford Clubs by David Balfour of Balfour and Trenabie. Edinburgh, 1859.

the said airschip, callit ane Scheind." For this the Under Foud received a fee of nine shillings Danish, which is declared to be equal to six shillings Scots. Cultemalindie abolished this part of the Fowde's duties, and instead of the nine shillings fee of Danish money, seized for himself a "sax shilling ox, quhilk is the maist sufficient ox that can be had," out of the goods of every deceased person. Some examples of the simple and interesting process of serving heirs and dividing heritable and personal estate by the *Shuynd* Court are extant, and have been given *ante*.

When Bruce of Cultemalindie was Great Foud, he sometimes forced the position of Under Foud upon individuals against their will, as in the cases of Nicholas of Cullivoe and Garth of Ulsta, both of which appointments were the subject of complaint at the trial. The former had to pay six dollars for the uncoveted honour, and the latter a silver spoon, which cost eight gudlings; but Cultemalindie, though for his own reasons he did not allow them to discharge the duties, refused their claim for redelivery of the consideration which they had paid.

The names of a few Parish Fouds of olden time have been preserved, and may be noted here, viz. :—

Andro Tollach,	Foud of Northmaven	.	.	.	1545
Willom, in Brustedt,	" Delting	.	.	.	"
Henrie Halcro,	" Tingwall	.	.	.	1575
Olav,	" Unst	.	.	.	"
Andro Giffurde,	" Delting and Scatsta	.	.	.	"
Thomas,	" Northmaven	.	.	.	"
John Smyth,	" Dunrossness	.	.	.	"
Gilbert Coupland,	" Dunrossness	.	.	.	"
James Sutherland,	" Fetlar	.	.	.	"
Walter Smyth,	" Unst	.	.	.	1581
Vylzeam Mansone,	" Unst	.	.	.	"
William [in] Neip,	" Nesting	.	.	.	1602
Ollaw Sutherland,	" Fetlar	.	.	.	"
William Fermour,	" Dunrossness	.	.	.	1603
David Sinclair,	" Burra	.	.	.	"
John Hawick,	" Yell	.	.	.	1604
William [Manson],	" Unst	.	.	.	"
Alexander Thomasone,	" Tingwall	.	.	.	1610
Magnus Bult,	" Bressay	.	.	.	1612

The island of Unst had two Fouds in 1581, due no doubt to its extent and population, or, possibly, to the addition of an assistant or colleague to an aged or infirm official. The case of Dunrossness, where there were also two Fouds in 1575, is explained by the large area of that parish, which, then as now, included the parishes of Sandwick and Cunningsburgh in the one united parish, or "ministry," of Dunrossness.

There is little doubt that the Parish Fouds, like their superior the Great Foud in the chief Court, acted under a recognised legal system modified to meet insular requirements from an original derived from Norway, sometimes referred to as the 'Book of the Law.' Even after the transaction of pawn to Scotland, it was not uncommon for decisions to be advocated from Courts in Shetland to Courts in Norway. In the trial of Cultemalindie in 1576-77, the "auld use and consuetude" and the "lawis and auld custome" of the country are frequently appealed to as the rule of government and justice, well known and conformed to, as the natives alleged, for "twa hundreth yearis by past"; that is, back to, at any rate, the middle of the fourteenth century.

But with the advent of the Stewart Earls in the later years of the sixteenth century, a new era opened. The aim of the new masters was the subversion, as far as was possible, of all local laws and institutions, or, at any rate, their assimilation to Scottish forms, the supreme object being, as is well known, the substitution of an oppressive feudalism for the free and simple system of odal possession and transmission of property which had existed from immemorial ages. Accordingly, the 'Book of the Law' disappeared; the Great Foud found a representative in a Sheriff or Stewart-depute, and instead of his ancient Court of the *Althing*, or native Parliament, "Lawting," Sheriff, and Justice Courts now framed the laws and mulcted delinquents. The Parish Fouds were at the same time transmogrified into the Scottish "Bailie."

In this way, with the overthrow of the old and the substitution of a new *régime*, fresh legislation by these Courts for the local government of the islands became a necessity; and this gradually resulted in the formation of a comprehensive set of municipal Acts, passed at various times during the seventeenth century. The

administration of these Acts in every parish was charged upon the Bailies, thus standing in place of the Under Fouds ; and a very fair idea of what their duties and responsibilities were may be gathered from the multifarious provisions which the Acts contained. But I have in my possession an original commission of a parochial Bailie, of date 1671, which authoritatively defines his duties and the extent of his jurisdiction. The document is unique, nothing of the kind being hitherto on record. It is as follows :—

Be it kend till all men be thir present lettres, We, Mr George Scott of Giblestoune, Stewart Principall Justiciare and Admirall of Orknay and Zetland, having power be vertue of my tack therof to nominat and appoynt bailyies within the respective yles and paroches of both countreyes during the tyme and space therin mentionat, and knowing the integritie, qualifcatione and fidelitie of Gilbert Olasone of Islesbrugh and of his abilitie to exerce the office of Bailyerie within the paroch and bounds of the parochine of Northmavein, lyand within the Stewartrie of Orknay and Zetland, and mainland of the said countrey of Zetland : Thairfoire, witt ye me to have nominat, constitute, and ordained, lykeas I be the tenor heirof do make, nominat, constitute, and ordaine the said Gilbert Olasone Bailie of the said parochine of Northmavein, giveand, grantand, and committand to himself allenarlie, secluding all deputes, full power and commissione to exerce the office of Bailyerie within the haill boundis of the said parochine, and for keeping of good neighbourhood and order amongst the parochiners therof, and for doeing of them justice, and for that effect to fence and affix Bailie Courts within any pairt of the said paroch at all lafull, needfull, and convenyent ocasioness, clerks and uyther members of Court to creat and causs be sworne for thair faithfull administratione in ther offices (for whom he is holdine to ansuer), decreis in matters of neighbourhood to pronunce and for payment of small sowmes within ten pounds Scottis money, and not to exceid the same valowe and amercemends of the said Bailie Court, with all priviledges and casualties belonging to that office to apply to his awin use for his labour, and generallie all and sundrie uyther things to do, use, and exerce concerning the said office, conforme to the Judiciall Acts made theranent ; and especiallie with power and chairge to the said Gilbert Olasone to assist his minister for putting of the acts and statutes of the Kirk to dew executione. And sicklyke with power to him to intromitt with and secure all wrack and waith goods, conforme to the instructions to be emitted be me or my deputes theranent, for which he is holdine to be

comptable to me or them from tyme to tyme: Provyding alwayes, lykeas it is heirby speciallie provyded, that the said Gilbert Olasone sall use all means possible to provyde lafull tennents for his Majesties ley lands within the said Bailyerie, and that he shall use all endeavour to prevent the lying ley of any pairt of the samen lands, and shall not suffer the same to be incrotched upon be the ffewaries, udallers, and uythers, but that he shall defend them against all oppressione; and ffarder, that he shall cause the ffewares, udallers, tennendes, occupiers of the landis within the said Bailyerie to make tymeous and thankfull payment of ther duties, conforme to the rental; and finallie with this provisione, the said Gilbert Olasone give in beffor me or my deputtes yeirlye, at the head court to be holdine be me or them, ane register of his proceeding in the said office, together with the names of the committars of all bloods, ryots, theft, witchcraft, and all uyther crymes committed within the said Bailyerie, and that he conceall no manner of wrong nor offence done within the same, nor committ no fact nor deid contrair to the generall acts made anent the Bailies dutie, under the paines contained in the said Acts; and thir presentis to continue during will and pleasur allenarlie. In witnes quhairof, written be Thomas Moir, servitor to Robert Drummond, Stewart Clerk of Orknay, I have signed and subscrybed the samen at Scalloway, the second day of September jajvj^o threiscore eleavin yeires, beffor and in presence of thir witnessis, Gilbert Neven of Windhous, David Drummond, merchant in Kirkwall, and the said Robert Drummond, inscriber of the dait, name and witnesses.

Gilb: Neven, *witnes*.

GEORGE SCOTT.
(L. S.)

D. Drummond, *witness*.

R. Drummond, *witnes*.

(*Dorso*)—Commissione of Baillearie for Gilbert Olasone, Baillie of Northmaven, 1671.

The seal bears arms as follows, viz.:—

Or on a bend engrailed azure, a mullet between two crescents of the field, and in the sinister chief point a crescent for difference, an esquire's helmet with mantling. The crest a pelican in her piety proper: motto, *Lux in tenebris*.

George Scott of Gibliston, near Colinsburgh in Fifeshire, who grants the commission of bailliarie, was Stewart of Orkney and Shetland from 1670 to 1675. He appears to have settled in Shetland, and

his family has since been represented by the Melby and Scalloway families. He was a grandson of Sir John Scott of Scotstarvit.

The terms of his appointment and the Acts which he was bound to administer sufficiently indicate the position and duties of the Parish Bailie ; and while these duties need not be further alluded to, the local statutes are so uniquely curious as to deserve some consideration in this connection.

Regulations in petty matters of district management were "statut and ordanit" from time to time from the beginning of the seventeenth century, and doubtless at much earlier dates, though the records do not exist ; but the first attempt at compiling a regular code of laws for Shetland appears to have been at a Court held in the Castle of Scalloway on the 1st and 3rd of August 1615. The enactments passed on this occasion are quoted in the 'Miscellany of the Maitland Club,' vol. ii. A code of a similar character, but with divergences suitable to Orkney, was passed at a Court held in the Palace of the Yards in Kirkwall, on the 7th November of the same year. These enactments formed the basis of all subsequent legislation, their provisions being enlarged and amended in succeeding years. The result was a body of laws of an exhaustively comprehensive character, but too profuse to be practically workable, or even to be readily accessible to those charged with putting them in force. This, again, led to the compilation of an abbreviated collection, which was known as the "Country Acts," consisting of forty-one separate enactments or provisions. A printed copy is preserved in the Advocates' Library (MS. 34. 1. 12), and one is also in my own possession ; but the original version of these is probably that given by Gifford of Busta, in his work, the 'Historical Description of the Zetland Islands,' written about the year 1733, but which was not printed till 1786. A reprint of Gifford's 'Description' was published by Thomas George Stevenson, Edinburgh, in 1879, and as the "Country Acts" also appear in full in the original paper as communicated to the Society of Antiquaries, it is not necessary to reproduce the details here.

In the execution of these regulations, which seem to have encompassed the entire circle of life and industry in the islands, the Parish Bailie continued, with the Ranselmen, to be charged with

functions which, if they ministered to their own importance and responsibility, must have rendered them officious, if not censorious, neighbours. But in a rude age minute regulations and acute penalties were no doubt the essential basis of government and of the maintenance of public order.

In 1724 an important Act was passed, having for its object the establishing of parochial schools through the whole county of Shetland; and a final attempt at adjustment of the native code was made in 1725, when, at a Court held at Burravoe on 17th November, following upon petitions presented by various kirk-sessions and heritors, there was ordained as law what was termed "A Compend of the Country Acts for directing the Rancellmen, and Society for Regulating of Servants and Reformation of Manners, with their Instructions."

These Acts provided with great minuteness and stringency for the observance of religion and morals and of the Sabbath-day; the training of children, the management of servants, and the maintenance of the poor; condemned swearers, liars, and scolds, with suitable apportionment of fines on delinquents; and, finally, defined the duties of the Ranselmen.

Under these amplified regulations justice continued to be administered and order to be maintained in the different parishes, until the entire system was swept away by the abolition of heritable jurisdictions about the middle of the eighteenth century. It would be interesting if we could reproduce with certainty the forms of procedure in the Courts of the Parish Fouds; but, unfortunately, no formal records of Court proceedings in Shetland in Scandinavian or later Scoto-Scandinavian times are preserved, if we except a few *Shuynd Bills* and documents of a similar kind, which merely served to register the decisions arrived at in particular cases. But the records we have of District Courts and of Bailie Courts of a somewhat later, and even down to a comparatively recent, date are sufficiently interesting, and bear evidence of the persistent survival of ancient native forms. Perhaps the most curious of these was the compurgatorial system, the exculpatory oaths on behalf of persons criminally indicted, of six men and twelve men, termed respectively the "saxter aith" and the "twelter aith," as also the

“lawright aith,” which were continued well into the seventeenth century. The Fouds and Bailies had formerly their councillors (*Raadmen*) selected from the most reputable men of the district, forming an assize to assist them. The attendance of all householders was required both in these inferior Courts and at the head Courts at Tingwall and Scalloway; and this itself indicates the survival of the essential feature of Scandinavian Courts and meetings (*Things*), namely, the presence and equal voice and vote of every free-born member of the State, as contrasted with an elected representative assembly.

The Bailie Court Book of the parish of Dunrossness, from 1731 to 1735—Andrew Sinclair, Bailie—is preserved, and is doubtless one of the last records of the kind extant. A transcript is in my possession. The minutes usually begin thus :—

In a Bailie Court, holden by Mr Andrew Sinclair, Bailie of Dunrossness, Sandwick, and Cunningsburgh. Court lawfully fenced, Stembord called, and Country Acts read. The Court adjourned till to-morrow at 10 o'clock before noon at . . . when the Rancelmen and all others concerned were ordained to attend.

Laurance Sinclair of Goat was usually “Procurator Fiscal” of Court. The obscure term “Stembord” probably means, either the list of those present or of those who ought to be present, or it may be the list of cases set down for trial.

Since the ending of those local judicatories, at the abolition of heritable jurisdictions by the Act 20 George II. c. 43, in 1747, the judicial administration of the islands has been assimilated to the ordinary system in Scottish counties, the survival until recently of the Ranselmen as subordinate criminal officers being, perhaps, the only noteworthy exception.

I have contented myself with thus briefly glancing at these unique native Courts of Shetland; but much learning was expended, perhaps uselessly, by Dr Hibbert on an elaborate disquisition on the subject, “Memoir on the Tings of Orkney and Shetland,” based upon presumptive evidence derived mainly from Icelandic and Scandinavian literary sources, which appeared in volume iii. of the ‘*Archæologia Scotica*’ (1831), and to which any one interested further in the subject may refer.

2. The Lawrightmen.

From information ordinarily available, any idea of the functions of the Shetland Lawrightmen could be inferred chiefly from the etymological significance of the term, from such indications as might be gathered from Icelandic or Scandinavian analogies, or from stray references by old authors, such as Gifford. In the 'Cleasby-Vigfusson Icelandic Dictionary' the following definition is given :—

LÖGRÉTTU MENN.—In the Norse law, as also in Iceland after the union with Norway, lögrétta was *the public court of law* held during the general assembly (Thing), and presided over by the Lagman (Lawman); the members (lögrétta menn), were delegated from all the counties represented in the assembly.

But when the record of the trial of Lawrence Bruce of Cultemalindie in 1577, formerly referred to, was printed, the Lawrightmen and their functions were brought into view, though at a period approaching the close of their career in Shetland, with a clearness that leaves no doubt as to what their position was in the economy of local government there. Balfour accordingly was enabled to supply the following definition, viz. :—

LAWRIGHTMAN.—Norse Lögrétta madr, *Scabinus*. An official chosen by the Vard-Thing, and charged with the custody and application of the standards of weight and measure, and the general interests of the herad or parish, especially in the Lag-Thing ["Law-ting"], where he acted as Assessor of the Lawman or Foud. The name was latterly given to the inferior local umpires of minor questions of scandal, marches, or breaches of the Sheep Acts, more correctly called Rancelmen.

In the complaints against Cultemalindie, it was charged by the inhabitants of Whiteness, Tingwall, and Weisdale that there had been no Lawrightman in their united parishes since his entry as Great Foud in 1572; "quhilk Lawrichtman," as the record proceeds, "of auld use and consuetude was ane necessar officiar in everie severale yle and parochie of the cuntrie, chosin with the common consent and electioun of the Fowde and Commownis to keip and giff attendance to the lawfull and just cuttell; quhilk is

thair mesour or elwand quhairwith thai mett thair clayth, callit wadmell, quhilk is ane dewtie thai pay to the Kingis Majestie for thair scat and landmales yeirlye. And siklyk to keip the just wecht callit the bismeir, quhairupon thair haill buttir, bayth of scat and landmales, wes weyit, togidder with ane just can quhairwith thai mesurit thair ulie payit in scat to the King. With the quhilk cuttell, bismeir, and can the said Lawrichtman mesurit, met, and weyit the saidis dewiteis of butter, wadmell, and ule fra the Commownis, and delyverit the saimen to the Fowdis, swa that bayth the Fowde and Commownis gat just mesour and wecht, without hurt, fraude, or gyle. And mairattour it was ane pairt of his office, as ane speciale man chosin for his discretioun and judgement to be Chancellar of the Assyiss in all Courtis, that quhair ony dificill questioun come in hand, he schew the law, use, and practick thairupon, and gave the rest of the assyiss informatioun how to decerne, and pronuncit the decreits, perqueyre, in default of scrybis; and hade an ordinar stipende of the Commownis thairfoir, and was as ane procuratour and defendar of thair richtis and commonwelth."

This description of the character and duties of the Lawrightman, which was not attempted to be controverted, justifies our acceptance of him as a genuine *tribune of the people*, as useful in the old commonwealth of Shetland as was the *tribunus* for the defence of the interests of the plebeians of Rome, and it is not necessary to adduce any further evidence regarding him. The names of a few of the ancient Lawrightmen have been preserved. Among these are the following, viz.:—

Magnus Tollach,	Lawrightman of Northmaven .	1545
Orme of Bw,	" Dunrossness .	1558
Nichole [in] Hardwall,	" Delting and Scatsta	1575
Erling of Bw,	" Dunrossness .	"
Erasmus of Kirkbustare,	" Bressay .	"
David Tulloch,	" Northmaven .	"
Christopher Laurenson,	" Walls .	"

While the Lawrightmen were the first of the local functionaries to be set aside by the new alien authorities from Scotland, they seem to have lingered on, though it may have been little more

than in name, till well into the eighteenth century. So late as 1733, Gifford, in his 'Description, &c.,' quite distinctly states that—

There is also in every parish a *law-right-man*, that is an honest man, appointed judicially by the bailiff, as the Rancelmen are. His business is to weigh and measure the rent-butter and oil, and also to judge of the quality thereof; and, if he finds it insufficient, to return it as not receivable. He is sworn to do justice, and keep just weights and measures.

This account shows some declension from the position of the Lawrightmen as described in 1577, and some confusion of his duties with those of the Foud. In the course of time the conversion of payments of rents, teinds, and duties in kind into current money rendered the office of the Lawrightman obsolete by a natural process, and he has long since ceased to be heard of.

3. The Ranselman.

The word *ransel*, commonly used in Shetland as to *search, examine*, indicates in itself the character of the Ranselman, which was simply that of an authorised "searcher" into scandals and misdemeanours in his district.

According to Gifford (1733)—

The Rancelman has the power of a constable to command the inhabitants to keep the peace and to call for assistance, and to enter any house within the parish at all hours of the day or night, and search the house for stolen goods, which they call *ranciling*; and if they find anything that the owner of the house cannot give a good account how they came by it, then they seize him directly and carry him to the bailiff, who takes precognition of the cause; and if it infers the crime of theft, then the thief, with the fangs or things stolen found in his custody, is sent to the prison, and the Stuart Depute acquainted thereof, who appoints a day for trying the thief according to law; and in case the bailiff finds that the representation of the Rancelman will not amount to any proof of the crime of theft, he dismisseth the suspected thief upon his good behaviour, with certification.

For the sake of completeness in this inquiry in regard to the native officials in Shetland, I am induced to quote the codified

instructions to Ranselmen, drawn up in their present form in 1724, and which are given only in Gifford's book of 1733 (re-printed in 1876) and in Shirreff's 'General View of the Agriculture of the Shetland Islands,' published in 1814, both works which are little known :—

Instructions for Rancelmen.

In a Baillie Court, lawfully fenced, the whole householders in the parish being present, the Bailie is to cause his clerk to read out a list of such honest men in the parish as are fit to be Rancelmen, and then he is to inquire each of them if they are willing to accept of the office of Rancelman, and if any of them refuse and can give no good reason for his refusal to accept, the Bailie may fine him in ten pounds Scots ; and those that accept, the Bailie is to inquire of the whole householders present if they have aught to object against either of those men why they may not be made Rancelmen ; and no objection being made, then the following instructions are to be read to them :—

1mo. You are at any time, night or day, you see needfull, to call for assistance, and to enter within any house within the parish, and search the same as narrowly as you can ; and upon any suspicion of theft, if they refuse you keys, you are to break open their doors or chests, and if you find anything that is stolen, you are to bring the thief and the fang to the baillie, or secure both, and acquaint the Bailie. If you have any scruple about any things you find in the house, you are to inquire how they came by it, and if they refuse to tell, take witness upon their refusal, and let the things be secured till you acquaint the Bailie. You are also to examine the house stores of flesh and meale and see if they be correspondent to their stocks, and likewise the wool, yarn, webs, stockings, &c., and inquire how they came by all these ; and if they cannot give a satisfactory account thereof, and brough and hamele,¹ you are to inform against them.

2do. You are to inquire into the lives and conversations of families, whether there is any discord or unbecoming carriage between husband and wife, parent and child, master and servant, or any other unchristian or unlawful practice in the family. You are to rebuke such and exhort them to amend ; and if they obey, it is well ; if not, you are faithfully to represent such to the judicatory competent, and bring the best evidence you can against all such offenders.

3tio. You are to prevent all quarrels and scoldings, as far as in your

¹ *Brough and hamele*, an old term of law, meaning proof of ownership.

power, by commanding the contending parties to the peace ; and if they persist, require witness against them, and call for assistance to separate them, and give in a faithful report thereof to the Fiscal, or Clerk of Court. And in case you are not witness to any scolding or quarrelling that happens, you are to gather the best information thereof you can, and make report of the same as aforesaid.

4to. If you hear any person cursing or swearing, you are to demand of them the fine ; and if they refuse to pay it, you are to require witness against, and report it to the Court, one-third of which fine is to yourself, and two-thirds to the poor.

5to. That you narrowly inquire in your neighbourhood who sits at home from the kirk on the Sabbath-day and from diets of catechising ; and if they can give no sufficient reason for their so doing, that you cause them to pay the fine, to be applied as aforesaid. And that you take particular notice in your neighbourhood anent keeping the Sabbath-day, and if you find any breach thereof, that you report the same.

6to. You are strictly to observe the Country Acts anent keeping good neighbourhood, such as that none injure others in their grass and corn, and rebuke the offenders, with certification, if they continue so to do, you will inform the Court against them ; and that they build their dikes sufficiently and timeously, under the pains contained in the Act.

7mo. That tenants do not abuse their lands nor demolish their houses through sloth and carelessness ; that you reprove such, and if they continue so to do, acquaint the land master.

8vo. You are to inquire if there is in your neighbourhood any idle vagrant person, and to acquaint such that they must either betake themselves to some honest employment, or you will inform against them, so as they may be punished and ordered to service ; and that the poor be taken care of in their respective quarters and not suffered to stray abroad. Nor are you to allow any beggar or thigger from any other parish to pass through your bounds ; and, if they offer so to do, you will secure them till they be punished, conform to the Country Act.

9no. That you try all the dogs in your quarter, and that none be allowed to keep a dog that can take a sheep, unless he is allowed to keep a sheep dog by the Bailie ; and that none keep scar sheep otherways nor in the Act, and that the Acts be observed anent punding, hounding, marking, and taking of sheep.

10mo. You are to inquire in your quarter anent all persons using any manner of witchcraft, charms, or any other abominable and devilish superstitions, and faithfully inform against such, so as they may be brought to condign punishment.

11mo. You are to examine all tradesmen in your bounds and see that they make sufficient work, and do not impose upon any in their prices ; and, if you find any such transgressors, that you inform against them, so as they may be punished as the law directs.

12mo. Upon any suspicion of theft, two or three Ranselmen may take as many witnesses with them, and go to the neighbour parish and rancell ; and, if they catch a thief, they are to acquaint the Baillie of that parish thereof, who will order the thief to be secured.

And, in the last place, as you are intrusted with a power of inspecting the lives and manners of others, so let your own life and conversation be exemplary unto them for good, and take care you are not found guilty of those faults yourselves that you are called to reprove in others ; for, if you should, your punishment shall be double to theirs. Now all these instructions, as far as it is in your power, you promise and swear solemnly in the sight of Almighty God, and as you shall answer to Him at the great day, faithfully and honestly to observe and perform.

The closing head is anent impeding, maltreating, or abusing Ranselmen in the performance of their duties.

One Ranselman, if one only, is known in literature—namely, Niel Ronaldson, whom the genius of Scott has presented as the “Ranselman” of Dunrossness in the story of ‘The Pirate.’ I can myself remember one excellent and respected Ranselman, James Sinclair, Out Voe, in the same parish, the last in that quarter of the country.

The last appointment of a Ranselman, so far as I am aware, was made in 1836. The petition to the Sheriff, and his deliverance thereupon, are preserved in the Advocates’ Library, and are as follows, viz. :—

LERWICK, 15th Dec. 1836.

Unto the Honorable the Sheriff of Orkney and Zetland, and his Substitute for Zetland, the Petition of John Bruce of Sumburgh, Tutor-at-law for Miss Robina Hunter of Lunna,

Humbly sheweth,—

That by a set of wholesome local regulations, called the “Country Acts of Zetland” (of which a printed abridgment is herewith produced), acknowledged on all hands to be admirably adapted to the peculiarities of these islands, and which have been acted upon for generations back, a description of parish officers called Ranselmen, whose principal duty

is to check and detect petty thefts, are appointed to be yearly, or as often as needful, sworn before the Sheriff, to the faithful performance of the duties of their office, which are fully detailed in the said Acts.

That in the parish of Lunnasting, the greater part of the property of which belongs to the petitioner's ward, the appointment of Ranselmen has for some time been neglected, and the consequence is that petty thefts have increased to an alarming extent, and the petitioner, as the only possible plan of preventing the progress of so distressing an evil, has resolved to apply to your Lordship to have a set of trustworthy persons sworn in as Ranselmen, to act in the above-mentioned parish.

May it therefore please your Lordship, in considering the premises, to direct Robert Anderson, Hamnavoe ; Laurence Humphray, Vidlin ; Michael Humphray there ; Andrew Laurensen, junior, Skelberry ; Laurence Humphray, Flugarth ; Thomas Laurensen, Luning ; James Pearson, Hamnavoe ; William Johnson, Lunna ; William Johnson, Kirkabister ; and Robert Thomson, Gilsbrake, to appear before your Lordship, in order to be examined, sworn in, and admitted as Ranselmen to act within the foresaid parish of Lunnasting, in terms of the regulations above mentioned.

According to Justice, &c.,

GILB. DUNCAN, *for the Petitioner.*

LERWICK, 16th Dec. 1836.

The Sheriff-Substitute having considered this petition, grants warrants to and appoints the persons within named and designed to be Ranselmen within the bounds and limits of the parish of Lunnasting, with all the powers pertaining to the said office by the immemorial law and usage of these islands, and ordains the same persons to appear in presence of the Sheriff-Substitute to be sworn into office.

AND. DUNCAN.

LERWICK, 16th Dec. 1836.

In presence of the Sheriff-Substitute, compeared this day the within named Robert Anderson, Laurence Humphray (Vidlin), Michael Humphray, Andrew Laurensen, Laurence Humphray (Flugarth), William Johnson (Lunna), William Johnson (Kirkabister), and Robert Thomson, to whom he administered the oath *de fidei*.

AND. DUNCAN.

(*Dorso*)—Petition to the Sheriff for Appointment of Ranselmen in Lunnasting, 15th December 1836.

If the above is not the last instance of the appointment of Ranselmen, it is certainly one of the latest, and it may not inappropriately conclude this attempt to set out the character and functions of the time-honoured Fouds, Lawrightmen, and Ranselmen of Shetland parishes.

Since the above was written I have learned that Sheriff Mackenzie, late Substitute at Lerwick, had an application made to him within the last few years for the appointment of Ranselmen in the island of Fetlar. He did not accede to the application, as the practice had fallen into desuetude.

I am also informed by Mr Bruce of Sumburgh that there was some talk of appointing fresh Ranselmen about 1862 or 1863, but it was then thought that the system was getting out of date, and there were doubts of its legality. In consequence of complaints of petty thefts in the Fair Isle, of which Mr Bruce is proprietor, he swore in two Ranselmen in that isle so late as in 1869. This had the desired effect at the time, and in a few years their office became a sinecure, and their employment was discontinued.

7. THE HORIZONTAL WATER-MILLS OF SHETLAND.¹

The water-mill of Shetland exhibits a curious example of the survival to our own day of a piece of mechanism, connected with an essential industry of life, of a type so archaic as to be almost wholly unknown beyond its own immediate area, and to be scarcely recognisable by comparison with anything now to be found elsewhere in Britain. And yet, as we shall see, there is reason to believe that this primitive machinery, and such primitive structures as those within which this machinery is still worked in Shetland, were once common, if not universal, in this country, as was the case in Ireland and in the northern parts of the continent of Europe and elsewhere.

The mills of Shetland have attracted the notice of many strangers, from their diminutive size and the peculiarity of the working apparatus. While, however, they remain before our eyes as a reality of common life in the islands, their specialty is for the most part only

¹ Communicated to the Society of Antiquaries of Scotland, 10th May 1886.

matter of passing comment; and it will only be when they have become things of the past, as they are already showing symptoms of becoming, that their uniqueness will be recognised; and details regarding them will be prized. For this reason I have obtained a specimen of the whole machinery connected with the motive power, and desire to put on record a more detailed description, with drawings, than has hitherto been given, with such explanations and illustrations as I may be able to bring together regarding it.

At present the mill, small as it is, is a marked, indeed an indispensable, feature in every scene of Shetland life. Near every homestead, on almost every rill capable, with winter rains, of turning its tiny axle, the mill stands, either alone or as one of a series, corresponding as the case may be to the extent and requirements of the more or less sparsely peopled district around. To remove those mills would indeed be to rupture the whole present economy of existence to many of their owners. In a primitive form of society such as this we can see the force of the prohibition in the Mosaic law: "No man shall take the mill or the upper millstone to pledge; for he taketh a man's life to pledge" (Deut. xxiv. 6, New Version). It is only within the last few years that the erection of a few improved mills on the Scottish pattern in different districts, producing a cleaner and better meal, with less labour, has induced some of the native farmers to prefer these to their own mills, which therefore are beginning to be neglected, and in many instances are falling into decay.¹

Hitherto single families, or small groups of families in a neighbourhood, have possessed their own mills, inherited from unknown antiquity, but of course repaired, renewed from time to time, as occasion required. When a householder has his own mill, he grinds his corn during the winter season at times suitable to his own convenience. When he holds a mill in common with neighbours, its use is by rotation among them, as by arrangement may best suit individual requirements. The corn, after being prepared, is conveyed to the mill in *beudies* (or *bödies*), a kind of straw creel, either by ponies in pannier fashion or by the owner himself. Many a long day or night he watches the slow process of grinding, or he may

¹ The old native mill is now almost entirely obsolete in Shetland (1903).

leave the mill temporarily to its own guidance, when he has calculated the requisite supply of corn in the *hopper* for a given time of grinding, returning to regulate it with a fresh supply. But though alone with the clack of the *clapper*, and the monotonous buzz of the whirling millstone, I am assured that those waiting hours are seldom dreary. And often these hours are whiled away with songs and tales and jests, when more than one are present, as many natives now scattered over the world can well remember in their own experience. In popular superstition the imp or demon Brownie often got the credit of supplying the corn to the "eye" of the upper millstone in the absence of the owner.

I. Notices of the Shetland Mill.

Before attempting a description, with drawings, of the machinery and appliances, it may be well to quote some notices of the Shetland mill by the more prominent writers whose attention it has attracted. Some of these notices perhaps scarcely deserve transcription, but they all possess a certain value, and for the sake of completeness they are given in full, in the order of time:—

1. Low's 'Tour through the Islands of Orkney and Schetland in 1774' (Kirkwall, 1879):—

Here [Sound, near Lerwick] I saw the first Schetland mill for grinding oats and bear, but this it does in but a clumsy manner, little better than a handmill or quern, only it saves hand labour. It consists of a very simple set of machinery; a small horizontal wheel for the water to play on, the top of its axis runs thro' the lower and supports the upper stone as in other water-mills; a hopper and shoe with a leaver to level the upper stone, completes the apparatus (p. 74).

2. 'The Statistical Account of Scotland,' 1793, Parish of Unst. Drawn up from communications of Thomas Mouat, Esq. of Garth, and the Rev. James Barclay:—

The water-mills, like the ploughs, are of a singular construction. They are without wheels. A round piece of wood, about 4 feet in length, and fitted with twelve small boards, in the same manner as the extremity of the exterior wheel of an ordinary mill, with a strong iron spindle fixed to its upper end, supplies the place of a wheel in these mills. The iron

spindle, passing through the under millstone, is fixed in the upper. A pivot in the under end of the *tirl* (the piece of wood above mentioned) runs in a hollowed iron plate. The water falls upon the *awes* or feathers of the *tirl*, at an inclination of between 40 and 45 degrees. The millstones are commonly from 30 to 36 inches in diameter. The *tirl* occupies the same situation under this mill as the trundles in the inner part of an ordinary mill, and it performs the same office. The diameter of the *tirl* is always equal to that of the millstone (vol. v. p. 182).

In Sir John Sinclair's 'View of the General Agriculture of the Shetland Islands,' 1795, where an account of the native mill might have been looked for, it is not referred to.

3. 'Tour through some of the Islands of Orkney and Shetland,' by Patrick Neill, A.M. (Edin., 1806):—

In the neighbourhood of Belmont [in Unst] I had an opportunity of viewing a Shetland water-mill. It was truly an awkward piece of machinery. The wheel, a very trifling one, was placed horizontally instead of vertically; consequently it could do but little work. The wheel had about a dozen of small float boards, placed in a slanting direction, at an angle perhaps of 40 degrees. The water striking these boards revolved the wheel. An iron spindle, passing through this wheel, through the eye of the under millstone, was fixed in the upper. The millstone (blocks of micaceous schistus found in the neighbourhood) were about 3 feet in diameter (p. 78).

4. 'View of the Ancient and Present State of the Zetland Islands,' by Arthur Edmondston, M.D. (Edin., 1809).—The author, a native, contents himself with quoting the description from the 'Statistical Account' of the parish of Unst given above.

5. 'General View of the Agriculture of the Shetland Islands,' by John Shirreff (Edin., 1814):—

The water-mills used in Shetland, like the ploughs, are different from those used in Britain, though it may be remarked that they are constructed precisely upon the same principles as those that are used in Scandinavia at the present day. They are without wheels. A stout cylindrical post of wood, about 4 feet in length, standing perpendicular, and fitted with twelve small boards, inclined so as to receive the impression communicated by the water which falls from above, gives motion to the upper millstone by means of an iron spindle fixed in the upper end

of the post, which, passing through a hole in the under millstone, is firmly wedged in the upper one. The millstones are commonly 30 to 36 inches in diameter 'p. 37).

6. Sir Walter Scott, when visiting Shetland in 1814 as one of the Commissioners of Northern Lights, with the usual keenness of his eye, caught sight of the native mill, his impressions of which he records as follows:—

The upper end of the little lake of Cleik-him-in [near Lerwick] is divided by a rude causeway from another small loch, communicating with it, however, by a sluice, for the purpose of driving a mill; but such a mill! The wheel is horizontal, with the cogs turned diagonally to the water; the beam stands upright, and is inserted in a stone quern of the old-fashioned construction. This simple machine is enclosed in a hovel about the size of a pig-stye—and there is the mill! There are about 500 such mills in Shetland, each incapable of grinding more than a sack at a time (Diary, 4th August 1814).

This personal acquaintance with the Shetland mill was afterwards turned to account in the romance of

7. 'The Pirate' (Edin., 1822).—Triptolemus Yellowley, the Scottish factor, *loquitur*:—

"Can a man," rising to enthusiasm as he spoke, "or even a beast, look at that thing there, which they have the impudence to call a corn-mill, without trembling to think that corn should be intrusted to such a miserable molendinary. The wretches are obliged to have at least 50 in each parish, each trundling away upon its paltry millstone, under the thatch of a roof no bigger than a bee-skep."

In a note it is added—

Had Robinson Crusoe ever been in Shetland, he would have had no difficulty in contriving a machine for grinding corn in his desert island. These mills are thatched over in a little hovel, which has much the air of a pig-stye.

8. 'Description of the Shetland Islands,' by Samuel Hibbert, M.D. (Edin., 1822).—Dr Hibbert was not at the trouble to produce a new description, but remarks that, "compared with a water-mill of Scotland or England, the grinding apparatus of Shetland seemed designed for a race of pigmies." And "the invention of this exquisite piece of

machinery is probably as old as the time of Harold Harfagre" (Iter., iii. p. 466).

9. 'The New Statistical Account of Shetland,' by the Ministers of the various Parishes, 1841-1845.—The native mill is scarcely alluded to in these reports. The minister of Unst remarks:—

The water-mills for grinding corn are the same as they have been for centuries, exceedingly simple, but answering the purpose very well. Every neighbourhood has its own mill, and every farmer is his own miller (p. 40).

The Rev. John Brydon, minister of Sandsting and Aithsting, says that "there are about 50 mills in the parish, and querns or handmills without number" (p. 115).

10. 'Voyage round the Coasts of Scotland and the Isles,' by James Wilson, F.R.S.E., M.W.S., &c. (Edin., 1842):—

We had this day [in the island of Unst] an opportunity of inspecting one of the primitive mills of Shetland. The grinding-stones, usually formed of micaceous schist, are placed upon a framework, and beneath a roof. A strong iron spindle is wedged into the upper stone, and passing through a hole in the centre of the lower one, is firmly fixed into the upper end of a strong wooden post; at the base of which are mortised, in a slanting direction, a number of flat boards forming the cogs of a kind of horizontal wheel. A trough from a natural rill of water is made to convey the moving power upon the wheel, which turns the upper millstone slowly round, and so grinds the grain, supplied either by an old straw basket or other rustic hopper, or more patiently by human hands (vol. ii. p. 322).

This description is accompanied by a woodcut fairly accurate, but showing the structure as grotesquely diminutive.

11. 'Art Rambles in Shetland,' by John T. Reid (Edin., 1869).—The author gives a drawing of the old mill near Scalloway; also separately of the *tir*, not altogether accurate in details, but sufficient to convey a general impression.

12. 'Shetland and its Inhabitants,' by Robert Cowie, M.D. (Edin., 1871):—

The water-mill peculiar to the country is a straw-thatched hut of the most primitive construction, and the smallest size calculated to admit human beings. The wheel is arranged so that the water is projected against it

horizontally, and not perpendicularly, as in mills whose architects have rightly estimated the force of gravity (p. 159).

13. 'Shetland, an Ecclesiological Sketch,' by Unda (T. S. Muir), privately printed, 1862.—In this pamphlet (p. 8) Mr Muir gives a sketch of "a roadside country mill, Cunningsburgh."

14. "The Agriculture of the Islands of Shetland," by Henry Evershed, Sussex, Prize Essay, Highland and Agricultural Society—'Transactions,' 1874 :—

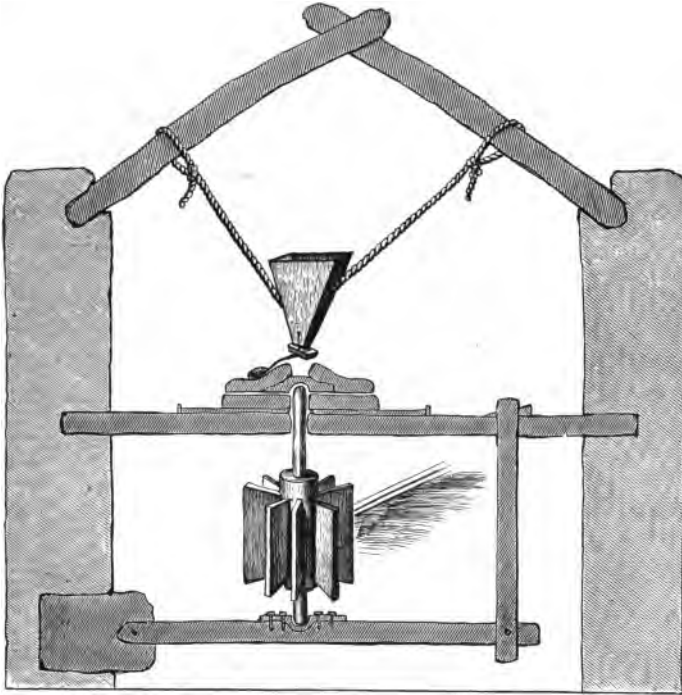
There are burns in every township, and a mill to every half-dozen families. The volume of water is, of course, in proportion to the small distance the burn runs before finding the sea, and the size of the vertical water-wheel is adapted to that of the rivulet. The mill is built, like all other structures, of stones or turf, the only abundant and ever-present material of construction. Like the houses and all other buildings, it is thatched with feals, or strips of turf, weighted with stones for security against storms. No portion of the materials is purchased, except a single clamp of iron, which is fixed in the running stone. Five or six families co-operate in the building of a mill, and they may become its owners a few days after the foundation-stone has been laid, &c. (p. 197).

15. "The Past in the Present," by Sir Arthur Mitchell, M.D., LL.D., 'Rhind Lectures in Archæology' (Edin., 1880).—In this work Sir Arthur describes the Shetland mills as follows :—

They are driven by horizontal wheels, the floats or vanes which receive the impulse of the running water being fitted obliquely into a sort of nave on the spindle. The motion is thus given directly to the millstone. In other words, no change of motion is necessary. The lower end of the spindle, which is generally shod with iron, turns usually in a stone socket, but sometimes in a socket of iron. The upper millstone is fed from a hopper hung from the roof by straw ropes. To the hopper is attached a feeder, which receives a vibrating motion from a stone fastened to it by a piece of string, and lying on the surface of the upper millstone, the roughnesses of which, as it goes round, make the string irregularly tight and slack, as the result of its varying drag. This mode of giving the proper motion to the feeder is as clear as it is simple. The millstones deliver the meal on the floor all round them on a space marked off by a low ledge of wood.

Sir Arthur Mitchell measured the door of one mill as $2\frac{1}{2}$ feet

wide by $4\frac{1}{2}$ feet high. His rough diagrammatic section, which I am permitted to reproduce here, shows the whole apparatus distinctly. The suspended *hopper* is perhaps disproportionately small. Frequently, instead of, as in this case, being hung by straw ropes, it is fixed to one cross-tree or secured between two cross-trees from side to side of the roof. The *clapper*, in place of



Diagrammatic section of Shetland water-mill.

being a stone attached by a string, is usually a piece of wood so fixed as to strike, and give a vibrating motion to, the *shoe*, causing a steady supply of corn to run out.

16. 'The Orkneys and Shetland,' by John R. Tudor (Lond., 1883). The description here (p. 151) is brief, and presents no new feature. Finally, an article in

17. 'Good Words,' for November 1884, gives a view of the interior of a Shetland mill, which is only a caricature. The mill-

stone is shown to be driven by a small cog-wheel, revolving alongside, on the top of the *tirl* or spindle.

II. The Mill and its Parts.

The Shetland mill possesses more than a merely antiquarian interest. It has a kind of scientific value, besides, as a curious specialty in hydro-mechanics. In Ferguson's Lectures, published in 1764, brought down to date by Brewster in 1806, it is stated, that "although horizontal water-wheels are very common on the Continent, and are strongly recommended to our notice by the simplicity of their construction, they have almost never been erected in this country, and are therefore not described in any of our treatises on practical mechanics." The author then describes the horizontal wheel, with a drawing showing the motive power communicated to the upper millstone by the cog-wheel system, instead of the simple Shetland method of carrying the stone directly around upon the spindle of the water-wheel.

In the same way, none of the other authorities on the horizontal wheel, whom I have had the opportunity of consulting,¹ appear to have been cognisant of the mill of the Shetland type. But, whatever the extent of the area of the horizontal mill may in former times have been, it is in Shetland, almost exclusively, that we now find it in actual operation. It is therefore as it exists in Shetland that it can be most accurately described, and that an indication is afforded us of what its use and working may have been elsewhere.

The mill in Shetland is always placed in the most convenient spot, in or near a township (*tún*), for obtaining a good water-supply. As a rule, ordinary running streams can be depended upon for this purpose only when there is an abundant rainfall. Whenever possible, therefore, a burn proceeding from a loch, or from a pond formed by a rude embankment, is preferred for steadiness of supply. From the nature of the case, the mills work only in winter. During

¹ On Horizontal Water-Wheel, especially Turbines or Whirl-Wheels, by Moritz Ruhlman, edited by Sir Robert Kane, Dublin, 1846. Expériences sur les Roues Hydrauliques à axe vertical appelées Turbines, par Arthur Morrin, Metz, 1838. Mémoires sur les Roues Hydrauliques à aubes courbes mues par dessous, par M. Poncelet, Metz, 1827.

the rest of the year the streams are often dry; and, besides, the scanty stock of grain is exhausted. What is not turned into meal in the winter grinding is carefully preserved for seed; and when the seed is in the ground in the *voar* (spring) the next season's supply must be waited for.

The mill itself, as has been shown by preceding descriptions, is no larger than is absolutely necessary, and is sometimes exceedingly diminutive, an object of curiosity and surprise to the stranger. An ordinary size may be 12 to 17 feet in length by 10 to 12 feet in width; walls, 4 feet to 5 feet high and about 2 feet thick; height of gables, 6 feet to 8 feet.

While the archaic character of the Shetland mill has so long been noted and commented upon, no specimen of the working apparatus has until now found its way to the Museum. So long as it remains before our eyes in actual operation, the preservation of any part of it has not been regarded as an object of urgency, or the opportunity of securing it has not presented itself. When in Shetland in the summer of 1883, I succeeded in possessing myself of the portable machinery—*i.e.*, the *tirl*, or water-wheel, and its accompaniments, viz., the *sole-tree*, the *lightening-tree*, the *sword*, and *sile*—and presented these as additions to the numerous objects of antiquity from Shetland already in the Museum. The *tirl* and gearing was bought, in its place, from Hans Leslie, Milligarth, in the parish of Dunrossness, the owner, who had made it for himself not many years before; and the cost to me of this working machinery of a mill, as it stood, was the not exorbitant sum of six shillings and sixpence! The mill in which this machinery did duty is one, now fallen into decay, of nine on the burn between the Loch of Clumlie and the sea at Trosswick, in the parish of Dunrossness; some of these belonging to individual farmers, others to a few neighbours, who use them jointly in rotation, as formerly explained.¹

The mill and its parts may perhaps be described in the following order—viz., (1) The Structure; (2) The Prime Mover; (3) The Grinding Apparatus.

¹ I some years ago put in repair, with a view to preservation, one of the mills on this affluent from the Loch of Clumlie. The dam and mill-run at this place, the "Burn of Trosswick," are of great antiquity (1903).

I. THE STRUCTURE.

*Under and Upper Chamber (Under-house and Upper-house)—
Floor—Walls—Roofs—Openings.*

The *under-house*, or lower chamber, is the portion of the mill, underneath the ground-level, where the water-wheel, or *tirl*, works. It is usually at one end of the structure, but sometimes in the centre, as may, in the natural disposition of the ground, be most convenient.



View of under-house and tirl (from a drawing by Mr John T. Reid).

When at the end, one of its sides is formed by the lower part of the gable wall. The other side is built at a distance of from $3\frac{1}{2}$ feet to 4 feet. The back wall of the structure forms its back; and its front, on the lower side of the mill, is always entirely open. The under-house is thus an open space, extending across the whole width, underneath the mill floor, of varying height and breadth, but

usually about 4 feet either way, or nearly so. The back wall is pierced by the small nearly square opening formed to admit the lower end of the trough, where it discharges the water upon the *tirl*. The roof is made of stout flags, which form the floor of the *ludr* or meal-house above.

The *upper-house* is the mill proper, forming a single apartment. It is built partly over the *under-house*, or lower chamber, and partly upon the solid ground, because, as just explained, the lower chamber occupies only a portion of the area.

The floor of the *ludr*, upon the centre of which the millstones rest, is formed by the flagged roofing of the under-house, and is either a slightly raised platform or is marked off from the rest of the mill floor by a small setting of stones. The outer floor is merely the natural earth levelled and compacted.

The *walls* are of stone, $1\frac{1}{2}$ to 2 feet in thickness, the upper part

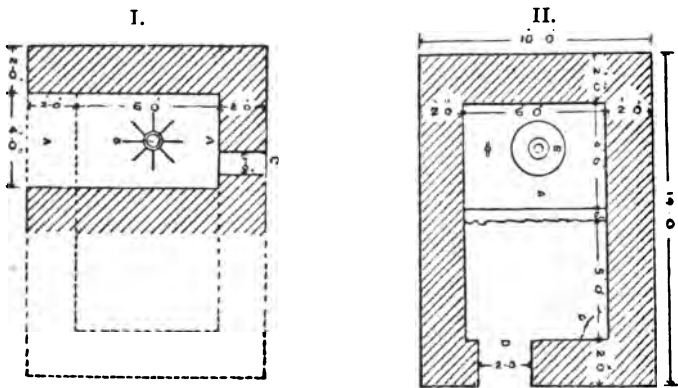
of the gables being frequently of turf, for economy of material and labour.

The *roof* is set with couples and tie-beams (locally "cross-balks") and is covered with turf ("divots"), secured with ropes of straw.



Mill at Sound, near Lerwick (from a photograph).

The *door* is, almost invariably, in one of the gable ends, opposite to the millstones; and it is the only opening, except occasionally a



Ground-plans of (I.) under and (II.) upper house.

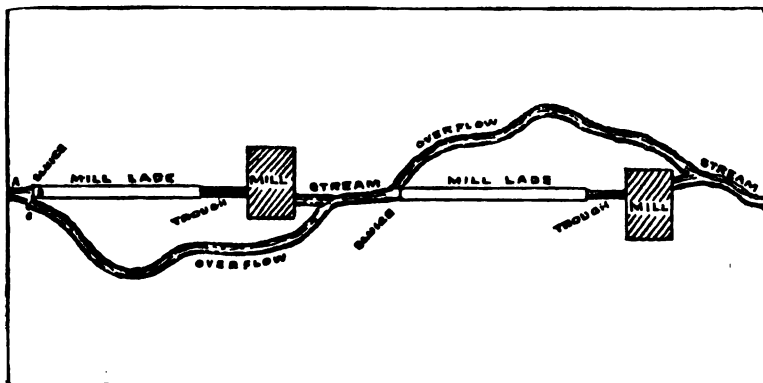
I., AA, under-house; B, site of tirl; C, opening for trough. II., A, *ludr* or meal-house; B, millstones; C, fireplace on floor; +, top of *lightening-tree*; D, doorway.

small roof-light let into a thin flagstone, and, it may be, an aperture in the roof for the egress of smoke from a small peat-fire on the outer floor in the corner (c).

2. PRIME MOVER.

Mill-Lade—Sluices—Trough—Tirl and Spindle, and Appliances.

As the water-supply is usually scant, the stream, when the position conveniently admits of it, is provided with a dam, or rude embankment on a higher level at some distance above the mill, so as to form a small reservoir or mill-pond. Some of these ponds and embankments are of great antiquity. The mills themselves, of less substantial construction, are more liable to decay, and have been more frequently renewed.



A, the stream : B, kluse : C, sluice.

As shown by the above diagram, the water forming the motive power in setting the mill in motion, and keeping it in work, is diverted from the stream A, by opening the sluice B, termed the *kluse*, and at the same time shutting down the *by-board* of the sluice C, to prevent escape to the natural stream. The whole volume is then conducted towards the mill in the prepared *lade*, terminating in a wooden *trough*, down which it rushes with augmented velocity, and discharging upon the water-wheel (or *tirl*) sets the grinding apparatus in motion. As a further protection to the mill against a sudden outburst of water upon it, or the failure of the *kluse* effectually to shut it off, a second kluse-board is sometimes placed at the junction of the lade and the trough, either with or without a separate overflow to the stream.

The waste water thrown off by the wheel (or *tirl*) in the *under-house* again forms a junction with the stream. If there are more than one mill on the stream, a second mill-lade with sluices is constructed, as shown in the diagram, when the same process of diverting the water, using and discharging it, is repeated as often as there are mills requiring it. By this method, each one of the mills is independent of the others. Each intercepts and utilises the water-supply when it is required; when not required, it is simply shut off, and passes on, to be diverted by the next mill in succession requiring it. This is well illustrated by the Ordnance Survey Map of the parish of Dunrossness, which shows nine mills on the burn of Trosswick.

When the water is scarce, and economy in its use requisite, it is not uncommon for as many of the mills on a stream as may be convenient to take advantage of the supply at one and the same time. This is sometimes done at night, which indeed is the favourite grinding-time, the water being allowed to accumulate in the loch or reservoir during the day.

The *sluices*, as has been indicated, are formed of wooden boards sliding in grooves made in the structure of the mill-lade.

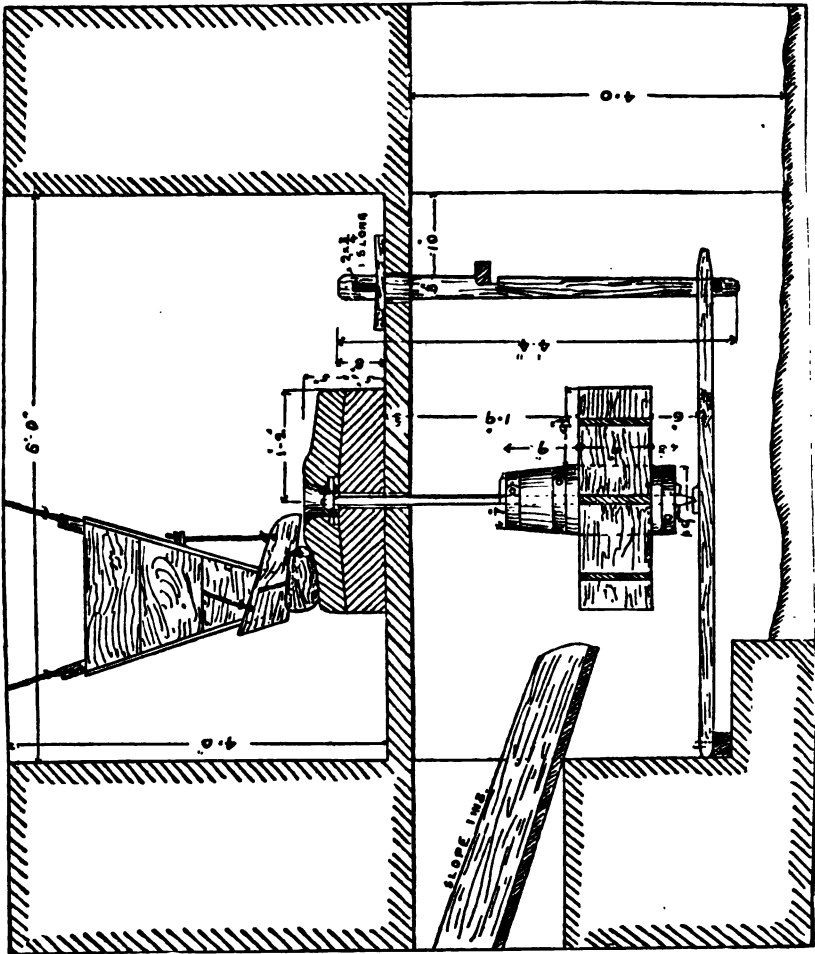
The *trough* is always of wood, about 10 or 12 feet long, 12 to 14 inches wide at the top, contracting to 6 or 7 inches at the lower end, and 12 to 14 inches deep, also diminishing as it approaches the lower end. It is pitched at a slope usually of about 40°. The *fall* varies from 3 to 4 feet. The position of the mill-lade and trough, and the mode of discharging the water upon the *tirl*, will be seen from the following section of the interior of a mill of average size.

The Tirl and Spindle.—This, the best known and most characteristic part of the Shetland mill, shown in preceding drawings, may be more fully described in connection with the specimen *tirl* (see the figure).¹

The solid wooden centre-piece or nave, through which the spindle

¹ Though the point seems to have escaped the notice of lexicographers, I cannot but recognise affinity between the *tirl* of the Shetland mill and the legal term of *thirlage*—that is, servitude, or astringency, to a particular mill. If I am right in this assumption it seems to demonstrate that *tirl* was, in the early ages, the recognised term for this primary mill appliance, though the knowledge of this has everywhere perished except in Shetland. Etymologically the word is the Icelandic *thyrill*, the substantive of *thyrila*, to whirl around.

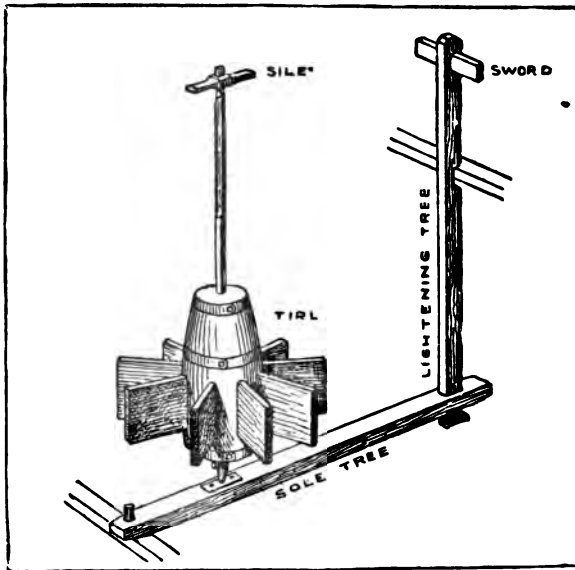
passes, is 1 foot 9 inches high, 7 inches diameter at the upper, and 9 inches at the lower end. It is bound with three iron hoops to prevent the expansion and bursting of the wood. The *feathers* or



Section of interior of mill (drawn by Mr. J. Romilly Allen).

float-boards, nine in number (one gone), are 9 inches high, and $9\frac{1}{2}$ inches of projecting breadth, mortised into the tirl. The feathers are, in this instance, fixed perpendicularly; more frequently they

are placed in an oblique or slanting direction. The upright *spindle* or axle, made of iron, passing through the wooden block or *tirl*, is 4 feet in length. Its formation, where it passes through the block, and at the upper end where it is fixed in the *sile*, and carries round the millstone, is rectangular in section. If its form had been rounded, it would have failed to answer its purpose, as, in that case, it would itself have revolved within the centre of the *tirl*, instead of being fixed within it, and carrying it round with it. In



Tirl or water-wheel and adjuncts (drawn by Mr J. Romilly Allen).

many cases the iron axle is made in two pieces, one end of each flattened in the form of a *tang*, and driven into the ends of the wooden nave, instead of passing wholly through it. This simple method obviates the difficulty of having to bore through the entire length of the block. An iron pin is inserted through the axle immediately below the wooden nave, to keep the nave fixed, without the risk of its slipping down on the axle. The *tirl*, when in motion, is always made to go with the sun—*i.e.*, from left to right.

Bolster-head.—The wooden beam placed along the back wall of

the under-house, forming the rest, or support, for the inner end of the sole-tree (if the sole-tree is not fixed in the back wall).

Sole-tree.—This, termed also the *under-balk*, is the beam upon which the tirl stands. Its inner end is fixed with a wooden pin, upon the centre of the bolster-head, from which it stretches forward at right angles. Near its centre is fixed the *ground-sile* or *ground-keeng*, the iron plate on which the lower end of the spindle revolves.

Lightening-tree.—The upright beam fixed from the outer end of the sole-tree, passing through the mill floor. It is a simple contrivance for raising or lowering the upper millstone, so as to produce a finer or more coarsely ground meal. The lightening-tree is kept steady in its place by the *cross-tree* or *guy-tree*, stretching across its centre about half-way up its perpendicular length, from side to side of the open front of the under-house.

The Sword (locally *Swerd*).—The little cross bar of wood which passes through the head of the lightening-tree on the surface of the mill floor. By the insertion of wedges underneath it, the lightening-tree is raised or depressed, as may be desired, with the consequent raising or lowering of the millstone, and the production of a coarser or finer meal.

Sile.—Size $9\frac{3}{4}$ inches by $1\frac{5}{8}$ inch and $\frac{3}{4}$ inch thick at the centre, from which it gradually diminishes to a thinner flattened surface towards either end. The sile is the small iron bar fixed across the under side of the *eye* of the upper millstone, in checks cut to receive it on either side of the opening. The upper end of the spindle or axle passes through a rectangular opening in the centre of the sile, and the sile, resting in its checks, carries the millstone along with it when it is turned by the spindle.

Grütte.—The nave of the under millstone, made of wood or cork, through which the spindle passes to the *sile* in the upper millstone.

Ground-keeng or *Ground-sile*.—The small iron bar or plate fixed in the *sole-tree*, forming the socket of the pivot of the axle. Two, frequently three, holes or depressions are made in it to receive the pivot. When one of these depressions is too deeply worn, the ground-sile may be slightly shifted and another depression or socket hole used. The origin of the term *keeng* is uncertain.

3. THE GRINDING APPARATUS.

Millstones—Hopper—Shoe—Turning-Pin—Clapper.

The millstones are of native stone, worked in the islands, and not imported. The size of course varies. The usual diameter is about $2\frac{1}{2}$ feet to 3 feet. The upper stone is usually slightly concave on the lower side. The grinding surface of both stones is renovated from time to time by sharpening with a pick. Diagonal grooves, so far as I am aware, are not known. The removal of the *sile* from the eye of the upper millstone prevents the possibility of the stones being set in motion. It is, consequently, sometimes taken away to guard against interference with the mill surreptitiously.

I have not ascertained the number of revolutions of the millstones in a minute, or the quantity of corn ground in a given time.¹ This is of course graduated by the volume and impulse of the water power, and the size and condition of the millstones. It may be sufficient to say that the rapidity of motion is not great, and that the grinding power is only moderate. But, nevertheless, the mill and its performance are, in the native eye, the reverse of contemptible; indeed the millstones and horizontal wheel, when at work, are regarded as a little formidable, and had better not be carelessly approached.

The millstones are not enclosed in any covering or casing. The meal, as ground, is delivered upon the floor all round the perimeter of the stones. It is carefully collected, and conveyed to the homestead in the native straw *beudie* in which the corn was brought to the mill.

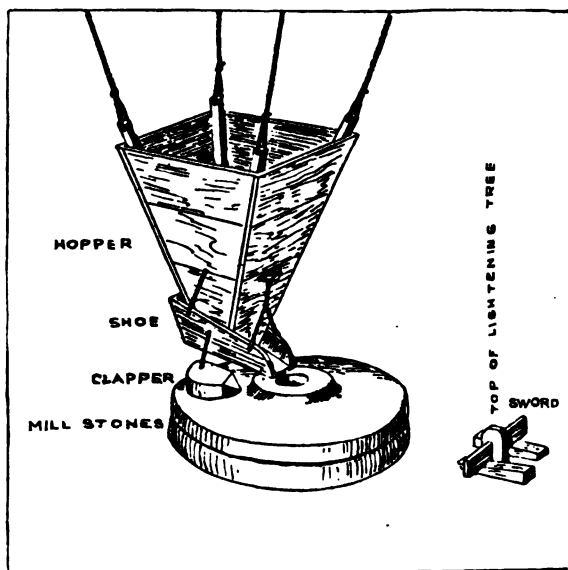
The Hopper.—This, which is common everywhere, is the wooden box or trough, containing the grain to supply the mill. It is square in form; wide a-top, and contracting towards the bottom, where it enters the *shoe*. It is fixed to cross-trees in the roof, or hung upright over the millstones by ropes from the rafters.

The Shoe.—Small wooden box, open in front, and without lid or cover; fixed beneath the open lower end of the hopper, to

¹ I have been since assured, on good authority, that an ordinary mill will grind a bushel of meal in an hour.

transmit the corn to be ground from the hopper to the eye of the upper millstone.

The Turning-pin.—The quantity of corn supplied to the eye of the millstone is regulated by the *turning-pin*. The pin is fixed in the front of the hopper, and a cord from it is fastened to the *shoe*. The tightening or slackening of this cord, effected by the mere turning of the pin, elevates or depresses the open front of the *shoe*, and causes the corn to run out more or less rapidly, as may be desired.



Hopper, shoe, clapper, &c.

The Clapper.—This is a piece of wood attached by a cord to the side of the *shoe*. Resting partly upon the upper surface of the millstone, it is shaken by the rapid motion of the stone, and constantly striking the *shoe*, it communicates its own vibrating movement to it, and causes the continuous outflow of the grain to the “eye” of the stone, which is known as “feeding” the mill.

In supplement to the above general descriptions, I am enabled

to submit the following dimensions, from careful measurements supplied to me by Mr James M. Goudie, of a mill at Sound, near Lerwick, viz. :—

Length of mill, outside .	14 feet 4 inches.
Width " " .	10 feet 6 inches.
Height to top of gable .	6 feet 6 inches.
Inner half of floor (<i>ludr</i> or "meal-house") .	6 feet by 5 feet 10 inches.
Outer end of main floor .	6 feet by 5 feet 6 inches.
Thickness of walls .	2 feet 3 inches.
Doorway . . .	4 feet 2 inches by 2 feet 3 inches.
Under-house . . .	3 feet wide by 3 feet 8 inches high.
Diameter of millstones .	2 feet 11 inches.
Eye of millstone, diameter	4½ inches.
Nave of tirl . . .	22 inches.
Feathers (9) . . .	15 by 11 inches.
Trough—length . .	13 feet.
" —breadth . . .	15 inches, diminishing to 7½ inches.
Height of sides . .	13 inches, diminishing to 12 inches.

I am also able, in concluding this part of the paper, to place, side by side with the names of various parts as known in Shetland, the names still preserved in remote parts of Norway, and the equivalent terms in Gaelic. For the Norwegian names I am indebted to a native gentleman, Mr J. F. Myhre, late of Christiania, who has taken the trouble to trace them out from provincials whose dialect, even at the present day, is very different from the standard Dano-Norwegian. The Gaelic names have been supplied by Mr Alexander Mackay, from his early knowledge of the mill at Kirtomy, in Sutherland, now in ruins, afterwards referred to.

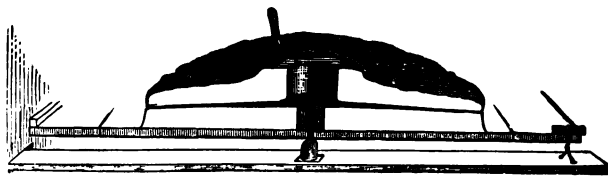
NAMES OF PARTS OF THE HORIZONTAL MILL.

<i>Shetlandic.</i>	<i>Norwegian.</i>	<i>Gaelic.</i>
Sole-tree or under-balk	Lettetre or Grund-skida.	...
Grund-keeng or grund-sile	Grunnmusa.	...
[Lowerpoint of spindle]	Pik (<i>i.e.</i> , Pike)	[Entire spindle] iarunn mhòr (big iron).

<i>Shetlandic.</i>	<i>Norwegian.</i>	<i>Gaelic.</i>
Tirl	Kall or Kvenkall	Bodach-a-mhuilinn (old man of the mill).
Feathers	Spjeld or Fjöl	Sgiathain (wings).
Spindle	Spenol or Spenvol.	...
Sile	Sigle	Crascan an iarunn mhòr (cross of the big iron).
Grütte	Grötte	...
Ludr	Ludr (Icelandic or Old Norse)	Leibhinn.
Overstane (upper mill-stone)	Oversten	Clach-uachdair.
Understane	Understen	Clach-iòchdair.
Eye	Kvein-auga (eye)	Suil (eye).
Hopper	Kveintina or Tina	Treabhailt or sleaghag.
Clapper	Skaketein (Old Norse, Skakmøndull)	Clabhan.
Shoe	...	Brog (boot).
Lightening-tree	...	Each (horse).
Trough	...	Amair (trough).

III. Area of the Use of the Horizontal Mill.

In the archæology, and in the rural life of Shetland at the present day, we find exhibited all the most primitive processes of corn-grinding with which we are acquainted. These are—(1) the ancient



Shetland hand-quern—sectional view.

rubbing-stone, with the stone which was worked upon it; (2) the perfected *hand-quern*, with rotary motion, at present in use. There is, lastly, (3) the *water-mill*, with horizontal wheel, and appliances, as already described. This, highly primitive as we regard it, is

nevertheless the supreme and most efficient effort, in its own way, of the simple form of civilisation which it represents. The Scottish corn-mill, with vertical wheel, undershot or overshot, and cogged spur-wheel, trundle, and gearing, now introduced into the islands, is the outcome of a race and an era altogether different in character; and the steam-mill, stationary or travelling, is something beyond the range of the natural vision of the native eye. Shetland therefore, *per se*, in this particular respect, has scarcely advanced beyond the limit of her civilisation in the Scandinavian era.

Though evidence is scanty, the probability is that the methods of grinding have developed everywhere in much the same way as in Shetland. We know that the hand-quern was in use in the East in early times; but it would appear from Latin authors that pounding corn in mortars was in use in Italy so late as the beginning of the Christian era, and that water-mills were not introduced before the time of Julius Cæsar. What the form of mill may have been at that time cannot be determined. No attempt appears to have been made to trace the process of advancement from early forms, and there is therefore, as yet, only room for conjecture. The similarity of the word for mill in many European languages has been pointed out by Irish antiquaries, and is certainly curious, viz. :—

Icelandic, <i>mylna</i> .	Irish Gaelic, <i>muil-eann</i> .	Finnish, <i>müllin</i> .
Danish, <i>mölle</i> .		Hungarian, <i>malom</i> .
Swedish, <i>möll</i> .	Scottish Gaelic, <i>muil-eann</i> .	Albanian, <i>mul</i> .
Frisian, <i>mellen</i> .		Greek (ancient), $\mu\lambda\eta$.
Dutch, <i>molen</i> .	Manx, <i>mwyllin</i> .	" (modern), $\mu\lambda\omicron\varsigma$.
Old German, <i>mulin</i> .	Lithuanian, <i>malunas</i> .	Latin, <i>mola</i> , <i>molen-dinum</i> .
Modern German, <i>mühle</i> .	Bohemian, <i>mlyn</i> .	
Swabian, <i>mülin</i> .	Polish, <i>mlyn</i> .	Italian, <i>mulino</i> .
Anglo-Saxon, <i>miln</i> .	Wendish, <i>mlon</i> .	French, <i>moulin</i> .
Welsh, <i>melin</i> .	Russian, <i>melynica</i> .	Spanish, <i>molino</i> .
Bas-Breton, <i>milin</i> .	Illyrian, <i>malin</i> .	Walloon, <i>molin</i> .

This tells significantly of the kindred origin and the universality of the mill, but conveys no indication of its form at any time, or in any place.

Corn-mills were in use in Scotland long before the twelfth

century, and they appear to have been introduced into Ireland at an equally early date. The very ancient Brehon laws prescribe the damages incurred by the miller in case of accidents in a mill turned by water. Under date A.D. 561 the Annals of Tighearnach contain an entry alluding to a mill; and there are traditions referring to mills at an earlier period in that country.

The horizontal water-mill, as we now find it in Shetland, is a more restricted subject of inquiry than that of the corn-mill in general. Almost obliterated as it is elsewhere, it is here still to be found in extraordinary numbers. In the parish of Dunrossness, from which the specimen exhibited was procured, the Ordnance Survey map shows at least thirty-six. According to the 'New Statistical Account,' there were about fifty in the united parishes of Sandsting and Aithsting. It has been estimated that there were lately as many as 500 in the different parishes and isles.

But while Shetland is thus, at the present time, the special home of this horizontal mill of primitive construction, the area of its use, at any rate in former times, cannot be limited to those islands. I have endeavoured to find traces of it in other quarters, with some success, though the literary material to be overhauled in the search is very varied and diffuse.

(A) GREAT BRITAIN AND IRELAND.

Orkney Islands.—The horizontal mill must have been common in Orkney at one time as well as in the sister group of Shetland, and its rapid and complete disappearance there is remarkable. It is not alluded to, so far as I have observed, in Wallace's or Barry's Histories, nor in the Old or New Statistical Accounts, or in any other authorities on Orkney. But the remains of one on the hill-side of Birsay, called a *Clack Mill*, are still to be seen, as I am credibly informed.

One out of the thirty-three special heads of complaint by the inhabitants of Orkney and Shetland against Lord Robert Stewart, in the year 1575, was his "taking away sucken fra the auld outhal [udal] mills of Orkney, whilk were observit of before inviolate." *Sucken* is defined by Jamieson as the jurisdiction attached to, or the

duties paid at, a mill ; and it may be inferred that Lord Robert had erected mills of his own, to which he had astricted the people, compelling them to pay multure to him, and relinquish the use of their own mills. The mention of the "old udal mills" of the country is, in any view, curious, and seems indubitably to point at a primitive native system of corn-grinding of which no other notice is, so far as known, preserved, and which has passed almost entirely out of memory in Orkney.

Caithness and Sutherland.—

In the Caithness district [of the parish of Reay] are ten water-mills, and in the division of the parish belonging to Sutherland, four. In each district, too, there is also a *highland mill*, having but one horizontal wheel immediately under the millstones (Statistical Account of Scotland (Sir John Sinclair's), Parish of Reay, by the Rev. David Mackay, vol. vii. published 1793, p. 576).

The old horizontal mill was thus known on the northern mainland of Scotland at the end of the eighteenth century, and a *highland* origin ascribed to it. No such mills now exist ; but one at Kirtomy, near Swordly, in the parish of Farr, Sutherlandshire, was in working order thirty or forty years ago. The construction of the mill, and the details of the grinding apparatus, were almost exactly the counterpart of those of Shetland. Sir Arthur Mitchell informs me that on 24th October 1864 he saw this mill, which became ruinous about the year 1868. A few days later he saw another of the same kind at Kinloch-Bervie, about two miles from Rhiconich.

The mill at Kirtomy was covered with *divots* (Gaelic, *foid*), and thatched with straw held together by ropes made of heather stretched lengthwise and across, and held down at the eaves with stones. A fireplace was on the ground, against the north gable, with a hole above it in the roof for the partial egress of smoke.

Outer Hebrides.—

The expense of a Highland mill is no obstacle, as it does not amount to a great many shillings. The stones are about 3 feet in diameter, the upper being fixed in a vertical axis that passes through the lower, and through the floor of the hut, which is built on the edge of a rock or bank over some stream. The axis is about 4 feet long, working on any casual stone by an iron pivot—the only iron in the whole construc-

tion. Sixteen or eighteen rude sticks, scooped at the outer ends like a spoon, are driven horizontally into it, their flat sides being vertically placed to catch the stream directed against them. The hopper is suspended by four strings from the roof of the hut, which is scarcely sufficient to contain a man upright. It would not be easy to construct the horizontal mill on cheaper terms (M'Culloch's *Western Isles of Scotland*, vol. ii. p. 30).

In Lewis there are numerous small mills of singularly rude construction. The wheel, consisting of a few flat boards, revolves horizontally. Its axis, passing through the nether, is fixed into the upper millstone, which it causes to revolve. The mill is fed by a hole in the upper stone. The parish of Uig can boast of having eight mills on one brook, but they are mills of the above construction (Mr Macgillivray "On the Present State of the Outer Hebrides," Prize Essay, Highland and Agricultural Society Transactions, New Series, vol. ii. 1831, p. 299).

The mills in Lewis are probably the greatest curiosity a stranger can meet with on the island. There is scarcely a stream along the coast, on any part of the island, on which a mill is not to be seen. These mills are of a very small size, and of a very simple construction. The water passes through their middle, where the wheel, a solid piece of wood, generally 18 inches in diameter, stands perpendicularly. A bar of iron runs through the centre of this wheel. This bar of iron, or axle, rests on a piece of steel which is fixed on a plank, the one end of which is fixed in the mill wall, the other in the end of a piece of plank which stands at right angles with the plank on which the wheel rests. The upper end of the axle fits into a cross-bar of iron, which is fitted into the upper millstone, which is rested upon wooden beams or long stones. There is a purchase upon the end of the said perpendicular beam or plank, by which the upper millstone can be raised or lowered. There are nine pieces of board, 8 inches broad and $1\frac{1}{2}$ foot long, fixed in the wheel, parallel and at equal distance from each other, upon which the water is brought to bear; which, together with a few sticks for roof, and some heather for thatch, constitutes a Lewis mill (New Statistical Account of Scotland, Parish of Lochs, by the Rev. R. Finlayson, 1845).

I made inquiry in Lewis as to whether such mills still exist, and was informed that several of them were in occasional operation, notably in the parishes of Barvas, Lochs, and Uig. Two or three were said to be seen at times at work on a burn in the face of a brae near Valtos, in the last-named parish, in the year 1886.

An old mill was not many years ago in use in the island of Taransay. Notwithstanding slight variations, it may be said to be scarcely distinguishable from the ordinary Shetland mill, as shown by a carefully executed model of it in my possession.

Mr Alexander Carmichael, an authority on all matters relating to social economics and local characteristics in the Western Isles, told me he had seen several such mills at work in Harris and the Lews.

Island of Mull.—In the parish of Kilninian “there are eight corn-mills, whereof three are of the ancient simple construction, in which there is but one wheel, and it lying horizontally, in the perpendicular, under the millstone; so that the water to turn it must come through the house. These are called black mills” [misprint for *clack*-mills?]. (Statistical Account of Scotland, Parish of Kilninian, by the Rev. A. M’Arthur, vol. xiv. p. 149, 1795.)

The Lowlands.—Thus far the clear and indubitable references to the ancient horizontal mills in Scotland are confined to Shetland, Orkney, Caithness, Sutherland, and the outlying Western Isles of the Lews, Harris, and Mull. Though written evidence is not ready to hand, I do not despair of finding enough, in the course of time, to show that its use was common all over the Lowlands, as well as in Highland districts and the Isles. In 1793 the Rev. John Ramsay, writing of the parish of Kirkmichael, in Ayrshire, in the ‘Statistical Account of Scotland,’ says that “in nothing has this part of the country received greater improvement than in kilns and mills. Formerly the latter were miserable machines, at which much time was consumed, and the grain horribly abused”—certainly an indefinite reference, but one that seems to point to something like the primitive structures we are treating of.

It has been mentioned that in Orkney the old horizontal mill was termed a *clack*-mill. In the island of Mull it bore the same designation, if the term *black* mill, which appears in the account of the parish of Kilninian, be, as I have supposed, a misprint. In Jamieson’s Dictionary *clack* is explained as the “clapper” of a mill, and *clack*-mills are alluded to in connection with that explanation. The old mansion known as Clock-Mill House, contiguous on the east to Holyrood Palace, and removed some years ago, is mentioned by Maitland in his ‘History of Edinburgh,’ 1754,

as the "Clack-mill-house."¹ An Act of the Lords of Council and Session, 7th May 1569, in defining the boundaries of the girth or sanctuary of Holyrood, expressly mentions a mill as standing at that place, on the stream proceeding from the Nor' Loch by the North Back of the Canongate. It is therefore no unwarrantable conclusion that in our near neighbourhood, on this stream which is now a main drain of that quarter of Edinburgh, debouching in the Craigentenny meadows, a mill of the old primitive type in question was situated in early times, for the use of the monks of Holyrood or of the citizens in that quarter, or of both, ere the Canonmills, on the north side of the city, came to be the principal mills of the brethren of Holyrood and their tenants.

About the year 1128 David I. granted to the Abbey of Holyrood 26 acres of land, with the right of erecting a mill thereon ("*volo etiam ut idem canonici habeant libertatem molendini faciendi in eadem terram*"); also one of his mills of Dene (Dean), and a tithe of the mills of Liberton and Dene, and the new mills of Edinburgh. It is not improbable that the clack-mill at Holyrood may have been the mill for the erection of which authority was thus given nearly eight hundred years ago, but the wording of the grant is too vague to admit of identification with certainty. It is clear, however, that the very limited water-supply on the Canongate burn (north back) could never have turned a mill of other than the most light and primitive description; and though it may have been improved in style, and doubtless been swept away long ago, the old name lingered (as the clack-mill) until, in comparatively recent times, the more dignified appellation, as it was considered, of the "Clock-Mill" House was assumed by the mansion which rose upon the property. A clack-mill, with hopper and "clapper," and presumably also the horizontal wheel, on this spot at the headquarters of civilisation and government in Scotland, seems sufficient warrant for our assuming the possible existence of such mills anywhere else in Scotland or in England.

It is difficult to arrive at any definite conclusion as to the construction and equipment of mills in early times, from the lack of

¹ "The gutter or channel in the Horse Wynd going eastwards to the Clack-mill-house" (History of Edinburgh, Maitland, 1754, book ii. p. 153).

sufficiently detailed description, so far as known to me. Some slight indication may be gleaned from the following conditions of the "setting" of the mills of Edinburgh to Alexander of Turing for two years in 1466; the said Alexander "biggand the said mylins of his awin expenssis in this maner; the twa hous of the mylne with stane and lyme, ekand the lenth of ilk hous xx fute of lenth and in breid xx fute within the wall, and loft thé twa hous sufficiently and mak a chimney in the wall of ilk mylne besyde the hopper, and the durris with hewyn stane."¹

At an early date mills received exclusive privileges. In the reign of Alexander III. (1249-1286) we find a statute of the guild prohibiting any one from grinding "*frumentum mastilionem vel ciliginem*" at hand-mills, unless compelled to do so by stress of weather or lack of water-mills.

It is apparent that, for however long mills of the primitive type remained in use in certain districts, structures and machinery of a more advanced kind were not uncommon, at least for three centuries back. In 1590 Robert and James Ker, with sundry other "broken men," were pursued by the Earl of Morton and the tenants of Langnewton on the charge that they "*schamefullie brak the stanys quhellis [stones and wheels] and utheris ornamentis of the said mylne [of Langnewton], and careit away with them the haill irne grayth thair of.*"² These expressions could not readily be used in reference to the equipment of the primitive horizontal mill.

Isle of Man.—

Many of the rivers (or rather rivulets) not having sufficient water to drive a mill the greatest part of the year, necessity has put them on an invention of a cheap sort of mill, which, as it costs very little, is no great loss though it stands six months in the year. The water-wheel, about 6 feet in diameter, lies horizontal, consisting of a great many hollow ladles, against which the water, brought down in a trough, strikes forcibly and gives motion to the upper stone, which by a beam and iron is joined to the centre of the water-wheel (Gibson's Camden, Isle of Man, vol. ii. p. 1448).

England.—It has been seen that the horizontal principle of mill

¹ Extract from 'Burgh Records of Edinburgh,' 1403-1528, p. 22.

² Register of Privy Council, vol. iv. p. 505.

construction was unknown a century ago to leading authorities on mechanics as having been at any time in use in England. But a statement which I at one time took note of from Green's 'Conquest of England,' on the authority of 'Doomsday Book,' that there were 264 *winter mills* in the one county of Dorset, seems to suggest that these were small mills of the kind in question upon minor streams eight hundred years ago. The quotation is from memory, and is subject to correction. Readers of Chaucer may have observed the reference in the "Clerke's Tale," written five hundred years ago, to the tongue of the masterful wife, which "ay clappeth as a mille," an expression of some significance viewed in the light of the present inquiry.

Ireland.—It has been shown, by a reference to an entry, under date A.D. 561, in the 'Annals of Tighearnach,' that water-mills were known in Ireland at an early period—but were those of the horizontal type? The evolution of industrial appliances of this kind elsewhere would seem to warrant the presumption that they were so, and there is archæological evidence pointing in that direction. The following extract from the Montgomery MSS., dated 1698, proves the existence of this primitive form of construction two centuries ago, or at no great distance before that time:—

From the said long bogg [beside Newtonards, in the county of Down] issue many rills and streams which make small brooks (some of them almost dry in the summer), that run to the sea on each side of the upper half barony; and on them each townland almost had a little miln for grinding oats, dried in potts or singed and leazed in the straw, which was the old Irish custom, the mealle whereof called *greddane* was very cours. The milns are called Danish or ladle milnes; the axel-tree stood upright, and the small stones or querns (such as are turned with hands) on the top thereof; the water-wheel was fixed at the lower end of the axle-tree, and did run horizontally among the water; a small force driving it. I have seen [some] of them in the Isle of Man, where the Danes domineered as well as here in Ireland, and left their customs behind them ("Montgomery MSS.," p. 321—Ulster Journal of Archæology, vol. iv. p. 13).

In the course of time the knowledge of this primitive mill completely passed away, and not even a tradition regarding it seems to

have remained. Several discoveries having, however, been made before the middle of the nineteenth century, by the side of running streams, of timber framework buried several feet beneath the surface, also millstones, wooden troughs, stocks or shafts with mortises for the insertion of the fans of wheels, &c., the question was once and again brought before the Kilkenny Archæological Society, in the years 1849 and 1850, and discussed as one of almost mysterious antiquity. It was finally concluded that those relics were the remains of water-mills of an early age, probably the eleventh or twelfth century.¹

It was some years later, in 1856, that the subject was exhaustively dealt with in a paper by Mr Robert MacAdam in the 'Ulster Journal of Archæology' (vol. iv. p. 6). Mr MacAdam submitted a drawing of a water-wheel found several years previously, and then in the possession of Mr James Bell of Prospect, near Ballymoney.

This was stated to be the most perfect specimen yet found in Ireland. The nave and upright axle were of a solid piece of wood, mortised with float-boards or buckets, nineteen in number, curved, and not slanting, but perpendicular. Somewhat different in appearance from the Shetland water-wheel or *tirl*, it is nevertheless substantially the same, and its mode of working would appear to have been identical.

(B) EUROPEAN COUNTRIES.

Passing from the United Kingdom, we find that horizontal mills were little more than a century ago very common on the Continent.² In the southern provinces of France, where the horizontal wheel was very generally employed, the float-boards are said to have been of a curvilinear form, so as to be concave towards the stream; these flat boards when concave, according to the Chevalier de Borda, producing a double effect. It would seem from the drawing given by Ferguson, that the machinery, which was apparently of iron, was vastly more complicated and costly than in the case of the Shetland mill; though possibly, in remote districts, a more primitive form may have been in use. But in Norway, and in the Scandinavian isles of Faroe lying

¹ Transactions of the Kilkenny Archæological Society for 1850, p. 154.

² Ferguson's Lectures on Mechanics, 1764, Brewster's edition, 1806, vol. ii. p. 179.

near to Shetland, and peopled by the same race, the old horizontal mill was, and in some places still is, in active operation.

Norway.—The present mills of Norway, and the circumstances connected with their erection and ownership, seem to be, with only slight variation, the counterpart of those of Shetland.

Laing, writing in 1836, states that “in Norway there is no astriction to mills: every man has Odel’s right, or, as I understand the term, holds them without service, suit, feu, astriction, or other burthen. Every man may build a mill who chooses to do so. In the glens about Laurgaard, every little farm has its own little mill.”¹ The mill is then described. The details are too minute and the paragraph too lengthy to be quoted, but any one desiring to pursue the inquiry further may refer to the original.

The Norwegian mill was also noted and described by Robert Chambers, in his ‘Tracings in the North of Europe.’ At Kingsvold he inspected “the corn-mill of the establishment—a small timber house striding over a precipitous mountain streamlet. It contains space for little more than the millstones, the upper of which moves on the lower by virtue of a vertical beam descending into a socket in the bed of the stream. The lower part of this beam is furnished with horizontal pans, against which, on one side or the other, the water pours down a sloping trough, so as to wheel it round. It is the very first mechanical effort after the use of the hand-mill of primitive times.”²

In my own too rapid travelling through Norway some years ago, the native mill did not attract my special notice. It is confined for most part to remote districts, and is little, if at all, known in the neighbourhood of the larger towns. Herr Hans Blydt, of the city of Bergen, was, however, good enough to procure for me the model in miniature of the horizontal wheel now in use, shown in the following woodcut.

The correspondence between this and the Shetland *tirl* is obvious. The bevelled groove or *slot* on the side at the upper end appears to be in connection with fixing the axle into the upper millstone in a

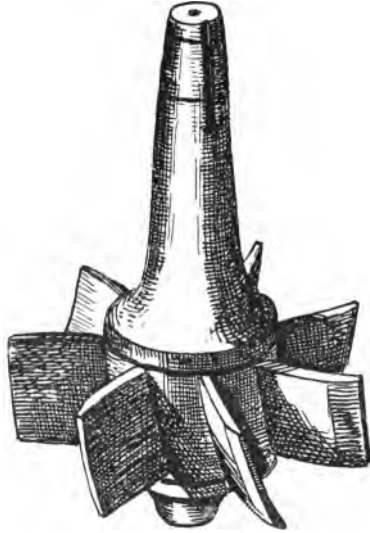
¹ Journal of a Residence in Norway, by Samuel Laing, Esq., London, 1836, p. 46.

² Edinburgh Magazine, No. 311, December 15, 1849.

different way from the Shetland method. The float-boards are seven in number, fixed diagonally, and slightly concave.

The close similarity, not to say practical identity, of the primitive mills of Norway and of Shetland has been further confirmed to me by Mr James M. Goudie of Lerwick, after a recent personal inspection of a number of mills in the Hardanger and Romsdal districts of Norway.

Faroe Isles.—The native mill is not alluded to in the quaint and interesting account of Faroe, 'Færoæ et Færoa Reserata,' by the Rev. Lucas Jacobsen Debes (translation published in London 1676), probably because at that time there may have been very few of them, or because they may not have been considered to



Norwegian mill-wheel (from a model).

possess any unusual interest. It is, however, fully explained in the 'Description of the Faroe Islands,' by the Rev. G. Landt (translation, London, 1810). His account might be held to be perhaps a fairly complete description of the Shetland mill instead of that of Faroe.

Iceland.—In Iceland there is little or no native grain. Had it been otherwise, we should doubtless have found the primitive mill in operation there also, and occupying a place in the native literature. The "Grotta Songr," or mill song, must be understood as referring to the hand-mill or quern. It is one of the most ancient of the Norse lays, part of the Edda circle. Fenja and Menja, the spæwives who were set to work the mill in Frodi's palace, sung "Leggiom lúdra, lettom steinom" (Let us fit the bin [Shetland, *ludr* or meal-house], let us lighten the stones). As the catastrophe approaches—

“Molo meyjar, megins kostódo ;
 Vóro ungar i iætun-modi
 Stukko stórar stedr frá lúdri
 Iarnar fiardar . . .
 Skulfo skap-tré, skautz lúdr ofan :
 Hraut in hœfgi hallr sundr i tvau.”

(The maids ground on, putting forth all their strength ; the young maids were in giant fury. The high props flew off the bin. The shaft-tree shivered, the bin shot down, the massy millstone rent in twain).—Corpus Poeticum Boreale, vol. i. pp. 184-188.

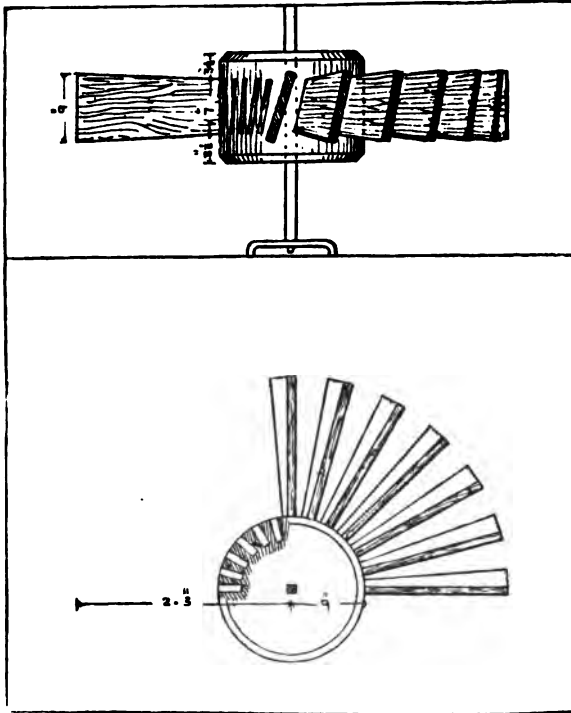
Sweden.—I have been assured by Major Alf Björkman, director of the *Tekniske Skole*, or School of Arts, in Stockholm, that the primitive mill, with horizontal wheel, is quite well known in Sweden, though no accurate description of it or illustrative drawings are available.

Denmark.—Professor Stephens of Copenhagen, after consulting reliable authorities, informed me that the horizontal mill in question is wholly unknown in Denmark.

IV. The Shetland Mill—Whence Derived?

The close resemblance of the Shetland mill to that of Norway and the Faroe Isles, and the continuance of these primitive mills in remote districts of Norway, and also of Sweden, to the present day, would give countenance to the conjecture that it was derived from Scandinavia, as was suggested two centuries ago in the Irish manuscript of Montgomery, 1698, previously quoted. Certainly the survival of these mills to the present generation in the north of Scotland, and to comparatively recent times in Ireland and the Isle of Man, all familiar districts to the roving Norseman, strengthens rather than impairs that theory. The comparison of the names of different parts of the mill, some of which are almost identical in Shetland and in Norway, is also still further corroborative. But though all this cannot prove that the horizontal mill of Shetland is necessarily of Norwegian origin, it establishes this much, that if not introduced into Shetland direct from Norway, it was in existence in both countries at an early period when one language was common to both. The mill in the one case must therefore either have been derived from the other, or in both cases

it must have been derived from a common ancestry. The mill, as we now have it in Shetland, may therefore not only date from the days of Harald of the Fairhair (ninth century), as Hibbert casually suggested, but its essential principle, the horizontal water-wheel—the first effort in mechanics beyond the hand-mill—may have been reached, and the names been conferred at a much earlier period in



Horizontal mill-wheel—Persia.

the history of the Teutonic peoples. These original names (like the mill structures and their simple machinery) have almost everywhere disappeared.

But the probability is that the horizontal mill may derive its origin from a point still more remote than the historic period of the Teutons in Europe, and from sources more near to the primal seats of the Indo-European race. Niebuhr states that he did not

see either water-mills or wind-mills in all Arabia,¹ but I am informed that the horizontal mill is common in Persia at the present day. Mr J. Romilly Allen, Rhind Lecturer in Archæology, tells me that he has seen such mills at work in that country, and the preceding drawing executed by him shows the resemblance to the working apparatus of the ordinary Shetland mill.

The Praying-Machine of Thibet is, I believe, of similar construction.

Horizontal mills are, or about the middle of last century were, common also in Syria :—

Those which I saw on Mount Lebanon and Mount Carmel have a great resemblance to those which are found in many parts of Italy. They are exceedingly simple, and cost very little. The millstone and the wheel are fastened to the same axis. The wheel, if it can be so called, consists of eight hollow boards, shaped like a shovel, placed across the axis. When the water falls with violence upon these boards it turns them round and puts in motion the millstone over which the corn is poured (Darvieux, *Merkwürdige nachrichten von seinen Reisen*, part iii., Copenhagen and Leipsic, 1754, Beckmann).

Darvieux's references here are sufficient evidences of the existence, in his day, of the horizontal mill in Syria and in Italy. I have not observed it in the latter country, and have not had access to any corroborating authority of the present day.² It is clear, from accounts given by Vitruvius and others, that water-mills were in use in the time of Augustus; but it is not certain that these were of the kind in question, working horizontally. The horizontal principle in another form was, however, well known to the Roman people in the first century, as is attested by the singular hand-mills which stand in the disinterred baker's shop in Pompeii. The development of water-mills from classical times is exhaustively discussed by Professor Beckmann of Göttingen in his 'History of Inventions,' published in English in 1797. But it is doubtful

¹ *Beschreibung von Arabien*, p. 217, quoted by Beckmann.

² A writer in 'The Scotsman,' of date 24th August 1880, in giving an account of a visit to the old Roman quarries of Carrara, remarks: "By-and-by our road struck the level of the river, and we inspected one or two primitive meal-mills. They had horizontal wheels, such as we have seen in use in some parts of Shetland."

whether this laborious investigator had any clear idea of the primitive form of horizontal mill, almost the sole survival of which we have seen at work at the present day in Shetland. And though in Europe, it is in Shetland, and almost in Shetland only, that we find it in active operation, it has, I think, been shown conclusively that it has not in the past been peculiar to Shetland, but that it has been known from an early period, and over a widespread area, not only in Europe, but in Asia as well; and that it may indeed be regarded as a significant illustration of the tendency to a uniform evolution in the phenomena of civilisation, under given conditions.

I have to express my indebtedness to Mr John Romilly Allen, C.E., F.S.A. (London); Mr James M. Goudie of Montfield, Lerwick; and Mr D. William Kemp, Vice-President of the Royal Scottish Society of Arts, for invaluable aid in the preparation of the foregoing description of the Shetland mill.

8. THE "KOLLIE," OR ANCIENT OIL-LAMP.¹

The kollie (formerly known in Scotland as the "crusie"), like many articles indispensable at one time in domestic use, has passed quietly out of view, superseded by more modern appliances. Too common, too trivial for the notice of the historian, it has left in its demise scarcely so much as an epitaph. The name, and a vague impression of what it may have been, is perhaps all that is known of it to the younger grade of the present generation.

Turning to the 'Encyclopædia Britannica,' 9th edition, we find the following description of the primitive lamp of this country :—

The simple form which was used down to the end of the eighteenth century, and which as a "cruisie" continued in common use in Scotland till the middle of this century, illustrates the most elementary and most imperfect arrangement of a lamp. Here, as in the lamps of antiquity, the oil-vessel lies immediately behind the burning point of the wick, with which the oil is about level when the reservoir is full. The wick is a round soft cord or fibrous mass. Such a lamp has no merit but simplicity. The light is thrown only forward and to the sides, the back being entirely in shadow. The wick, being a round

¹ Submitted to the Society of Antiquaries, 23rd January 1888.

solid mass, takes up the oil equally at the centre and circumference ; but to the outer edges of the flame only is there any access of air ; consequently combustion in the centre is imperfect, resulting in a smoky unsteady flame, and a discharge into the atmosphere of the acrid products of destructive distillation. Further, as the level of the oil sinks in the reservoir, the wick has to feed the flame from a greater distance by mere capillary force, and, the supply thus diminishing, the light decreases in proportion.

Such is the latest, and probably the fullest and most authentic, description of the old Scottish lamp available for general readers ; and though imperfect, and with some slight misunderstandings, it is fairly accurate. But no drawing is given, and the precise form and dimensions are left to conjecture.

In the Rhind "Lectures in Archæology," 1876, Sir Arthur Mitchell alludes to the rapid extinction of the *crusie*, and two examples are figured. Since then attention has twice been directed to it before English societies ;¹ but though vast numbers of these lamps were, at no great distance of time, in use in Scotland, and several stray samples have found their way into our Museum, no account of them has ever appeared in the *Proceedings* of the Society.

The examples in the Museum are the following, viz. :—

Crusies of Iron, with Hooks for Suspension.

- 1-7. *Crusies* (one with iron stand), localities unknown.
8. *Crusie*, Lindores, Fifeshire. 1876.
9. " Burreland, Sandwick, Shetland.
10. " Shetland, probably Fair Isle. 1883.
11. " Sumburgh, Shetland. 1883.
12. " Stonybrake, Fair Isle, Shetland. 1883.
13. " Upper shell, locality unknown.
14. " North Uist.
15. " Burra Isle, Shetland. 1887.
16. " Aboyne. 1883.
17. " Brass, with initials, Dundee. 1883.
18. " Square-shaped, locality unknown. 1883.
19. " Iron, with wooden pin, locality unknown. 1884.

¹ Paper by Mr J. Romilly Allen, 'Journal of the British Archæological Association,' vol. xxxvi., 1880 ; paper by Dr J. G. Garson, 'Journal of the Anthropological Institute,' vol. xiii., 1884.

Of these nineteen the localities of nine are known, five of them being from Shetland, and the rest from different parts in Scotland—viz., Lindores, Dundee, North Uist, Aboyne. Not a single example comes from the south of the Forth, though it is as nearly as possible certain that the lamp in this form was common from one end of the country to the other.¹ In the Shetland Islands, as may be inferred from the predominance of preserved examples, it was in constant if not universal use, under the local name of the *kollie*, until about the middle of the nineteenth century, when a tin lamp, in form resembling a coffee-pot, was introduced, supplanted in turn by the ordinary paraffin lamp.

The *crusie* consists of an upper and under shell, the upper acting as the oil-reservoir, and the under one serving the purpose of catching any dripping or overflow from it. The under shell and the upright *back* were usually made in one piece. The upper shell was a separate and somewhat smaller vessel, suspended on the toothed or notched bar which projected forward from the back, at right angles, or on an upward incline. The back was always bent forwards at the top, and usually terminated with a spike and a hook, so as to adjust itself to the centre of gravity when in suspension. The *kollie* in Shetland was always the manufacture of the village or district blacksmith, and never, so far as known, imported. Its successor, the tin lamp, was the work of the tinker.

Attention is directed to the simple but ingenious contrivance for keeping the oil for consumption at a nearly uniform level while the waste by burning of the wick goes on. This is accomplished by the mere movement from notch to notch on the projecting bar of the upper shell which contains the oil-supply. The effect is to elevate the back, and, by consequence, to depress the front of the shell, thus equalising the level of the oil at the front of the nozzle from which the burning wick protrudes, so long as the oil lasts. The writer of the article in the 'Encyclopædia Britannica,' before referred to, seems unaware of this contrivance, and represents the wick, when the oil is low, as being fed by mere capillary attraction. The wick was usually of cotton, or native worsted

¹ Since this was written about twenty more specimens have been added to the Museum, chiefly from Aberdeenshire and Banffshire.

yarn,¹ and, as it gradually burnt down, was trimmed and pushed to the front of the nozzle by a slight wooden pin, which, for the purpose, lay in reserve in the upper shell. When not carried in the hand, the *kollie* was usually hung upon a nail, or suspended on a cord, by a small iron hook at the upper portion of the back.

The specimen here figured was picked up in the island of Houss

(Burra Isle), Shetland, in 1877, cast out of doors, discarded, useless. The owner, Mr John Inkster, now deceased, informed me that it had been made about fifty years previously, by a smith in the parish of Dunrossness, well known to myself; from whom, curiously enough, I had secured the veritable stone mould in which, in his early days, he had played the village Vulcan in the manufacture of *kollies* as occasion required. In this mould, then, which is now added to the Museum, I have confidence in believing that this lamp was hammered into shape.



*Kollie from Burra Isle,
Shetland.*

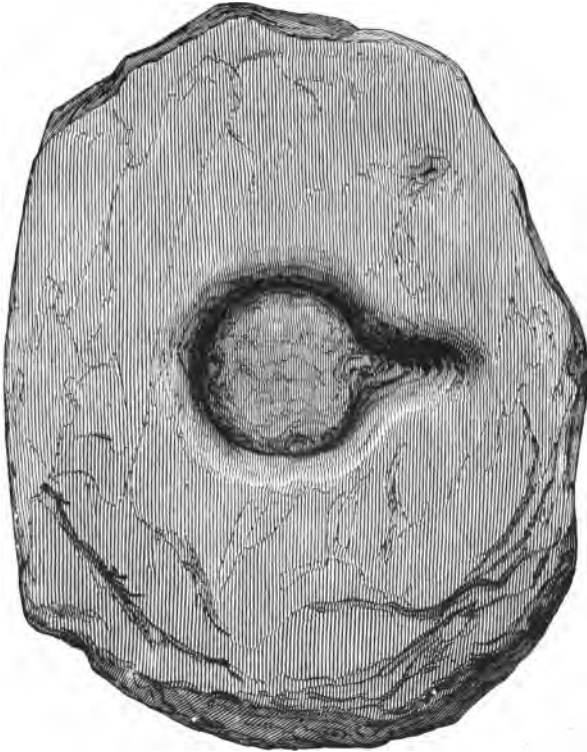
Some friends, whose opinion was entitled to respect, were for a time sceptical regarding the claims of this stone to be a crusie-mould. A similar stone from Orkney, which had been long in the Museum, had been regarded, in the

absence of more definite proof, as a mould for metal mirrors of primeval type! The subsequent arrival of a similar mould, in 1884, from the island of North Uist, and of another, since then, from Orkney, coupled with my own personal testimony, put the matter beyond a doubt.

Separate moulds are recessed in either side of the stone. The larger is obviously for the first rough shaping of the sheet of iron;

¹ I am assured that, in the Scottish Highlands, in Ireland, and elsewhere, the *pith* of growing rushes was commonly used for wick.

the smaller, which is more distinctly formed to the outline of, especially, the upper shell, is for completing the later stages of manufacture. After all this lapse of years, the lamp, expanded and battered by use and exposure, still coincides pretty closely with the matrix in which it was originally hammered out.



Kollie-mould of stone, from Shetland.

The measurement of this kollie is as follows, viz. : Total length or height of back, $7\frac{1}{2}$ inches ; length of upper shell, $5\frac{1}{2}$ inches ; depth of cavity of upper shell, 1 inch ; width of upper shell, $4\frac{1}{2}$ inches. The under shell is very slightly larger than the upper.

It may be stated, without entering into further details of measure-

ment, that most other crusies known are of the same general type and dimensions, though it will be understood that the taste of the maker, the quantity of metal at command, and the requirements of the purchaser, would have a varying effect in every individual case. Usually the crusies were of thin iron, but an article of a higher class was occasionally made of copper.

A quite perfect example is one produced by Sir Arthur Mitchell at the meeting of the Society on 8th February 1897, and now here figured. Special attention was directed by Sir Arthur to the contrivance for hanging the kollie—namely, the spike and hook at the top, the former of which he supposed was intended for insertion in the unplastered and uncemented walls of cottages. Whatever its original purpose, this peculiar feature has been common not only in Shetland, but also in Scotland and all over Europe.



Another variety is that in which the upper shell is covered by a metal lid attached to the upright back by hinges, of which several examples are in the Museum.

In the Shetland Islands, up to a recent period, imported oil was almost unknown. Oil, of home manufacture, from fish-livers, was the article in almost universal use. Until recent times, oil measured in "cans" formed, apart from domestic use by the owner, an important element in the payment of rents and duties, which were formerly collected in *kind*, and also entered largely into local economics as a commodity of exchange or barter.

In the foregoing I have used indifferently the better known Scottish word *crusie*, and the peculiarly Shetland term for the

same thing, *kollie*. The latter may seem somewhat barbarous, but its origin is pure. It is the simple Icelandic *kola*; and here etymological science comes in to the aid of archæology, for the occurrence of this primitive unadulterated root-word in such early writings as the "Sturlunga Saga," "Vilkins maldagi," and the "Gisla Saga," proves the enormous antiquity of our humble *kollie*, even if there were no other evidence; and indicates besides that in Orkney and Shetland its introduction is due to Northman influence rather than to the Scottish side.

In the old laws of Norway ('Norges Gamle Love,' ii. 247) it is prescribed that men should be provided with lights, either in lanterns or in "kollies" of stone or brass (*edr i kolum af stemi edr eiri*). Hans Egede, the Danish missionary, whose account of Greenland was published in 1741, observes that the natives there called "*kollek*, a lamp, which in Nors is called a *kolle*."¹

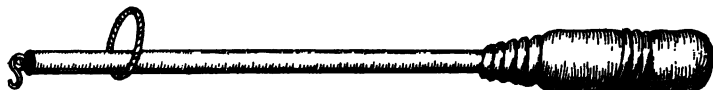
It is scarcely necessary, in conclusion, to allude to the Greek and Roman lamp, which, both in metal and in the graceful forms of pottery, is essentially of the same type, though less complete. I have confined myself to the old oil-lamp as it was known in Shetland in my own early days. The evolution of lighting appliances has been exhaustively treated by Mr Romilly Allen, F.S.A., and he has shown that lamps similar to those under consideration were known from the earliest times in Italy and other countries; and in recent times in Iceland, the Scilly Isles, in France, Algiers, and elsewhere. It ought to be observed, however, that the Continental form, like the ancient Roman, has only a single shell, whereas the special characteristic of the old Scottish form is that it is double-shelled. The notched bar, for the regulated suspension of the upper shell, also further marks the uniqueness, so far as known, of the Scottish *crusie* and of the Shetland "*kollie*."

¹ Det Gamle Grönlands nye Perlustration eller Naturel-Histoire, Copenhagen, 1741.

9. THE BYSMAR, THE TUSKAR, THE SCYTHE, THE ONE-STILTED
PLOUGH, THE RIVLIN, THE QUERN, AND THE KNOCKIN'-
STANE.

The Bysmar.

It has been shown in the account of the RENTALS of Shetland that the rents and duties exigible were paid only to a small extent in money, and chiefly in "kind" or produce,—*wadmal* (coarse native cloth), oil, and butter,—the standards and instruments of extent, capacity, and weight being respectively the Cuttel and Pack, the Can and Barrel, and the Bysmar and Pundar.



The Bysmar.

At least one of each of these standards, duly authenticated by the Lawman, the Lawrightman, or the Foude, or by any two of these officials, was jealously preserved in country districts by the Lawrightman, whose duty it was to see that the commons, in making their payments, were not made the victims of falsified standards. The falsification of weights and measures in this way, to the great detriment of the people, was one of the chief complaints against Lawrence Bruce of Cultemalindie.

The bysмар was the recognised weighing-machine in the islands for many centuries, and was still in common use up to near the middle of the nineteenth century. As a child I have seen it brought into requisition in my own family, though at this distance of time I am unable to state with certainty in what way the weight was determined. My impression is that it was noted in the old native computation of "lispunds" and "marks," the former (increased in weight from time to time) being the equivalent of perhaps about a stone, each lispund containing 24 marks. A representation of the method of weighing by the bysмар is given in the 'Historia de Gentibus Septentrionalibus' of Olaus Magnus, Archbishop of Upsala, published at Rome in 1555.

The bysmar of Shetland is the same word, *bismer*, in Norse and Danish dictionaries, defined as a steelyard; *bismari* in Icelandic, *bismal* in Swedish. I have not observed the bysmar in any place in Denmark, Sweden, or Iceland; but I found a specimen preserved in the Museum at Bergen in Norway, indicating that, as with us here, it is now looked upon only as an antique curiosity. Even in Shetland, where it appears to have lingered longest, it has gone out of use and out of mind, an Act of the Imperial Parliament, passed a number of years ago, which discharged the use of any but the standard weights and measures in every part of the United Kingdom, having negatived the possibility of its reappearing in any usable form. Specimens of the bysmar are preserved in the National Museum of Antiquities in Edinburgh, one is in my own possession, and the old family bysmar to which I have alluded finds a secure resting-place at Braefield in Shetland.

The Tuskar.

This is the "torf-skери," the turf-cutter, of the old Icelandic, the instrument immemorially used in the islands for cutting peats for fuel, and unaltered in name from the days when the language in Norway, Shetland, Faroe, and Iceland was identical. It is made of iron, fitted to the end of a wooden shaft, and is admirably designed for scooping out the peat in proper rectangular form. In its shape, and in the method of using it, the tuskar is considerably different from the clumsy "caschrom" of the Hebrides, and with it peats are dug out, and arranged in tiers for drying, with great deftness.



The tuskar
(drawn by Mr F.
R. Coles).

The Scythe.


The shaft here is long, compared with the Scottish scythe, and the blade is much shorter. In Shetland the mower stands erect, while in Scotland the shorter handle compels a stooping posture when the scythe is in action. The Shetland form of the implement, I understand, has now become antiquated, largely superseded by the Scottish scythe, which, with its longer blade, takes a larger circuit in each stroke on the grass-meadow or in the corn-field. It was, however, universal in my early days.

The Shetland Plough.

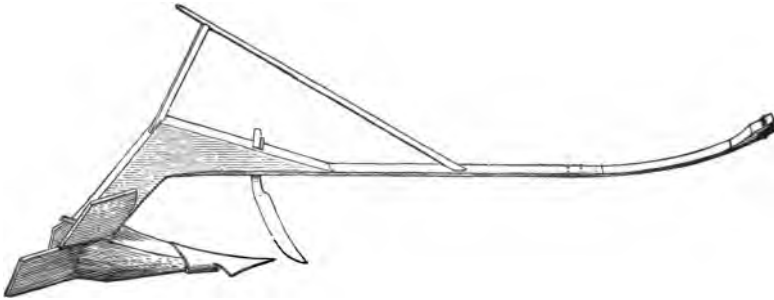

The one-stilted plough was in former times in use in various districts of Shetland; but in the course of time a retrograde movement took place, and the more primitive form of spade husbandry became almost universal in the islands until in comparatively recent years, when, with the enlargement of individual holdings, the use of the plough, of the improved modern pattern, was resumed. Sir Arthur Mitchell, thirty or forty years ago, found one of the old wooden ploughs in use in the parish of Cunningsburgh, and a new one, which is now in the Museum, was made for him, and is figured opposite. It is assuredly a very humble implement of culture.

The Rivlin.

The Shetland scythe. The shoe of untanned hide formerly universal in Shetland, and still in common use.

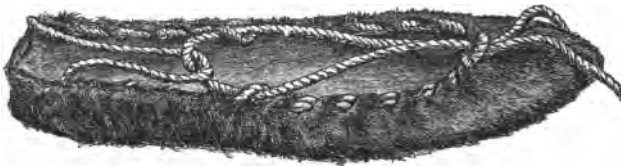
I have found it in equally widespread use in the Danish isles of

Faroe, our next neighbours on the north-west; but the binding cord, or thong, is there twisted round the ankle and well up towards the knee, instead of, as in Shetland, being neatly tied on the top of the instep or round the ankle merely. In Iceland it is also in



One-tilted Shetland plough.

common use, though in appearance and make it is somewhat different from the Shetland fashion, as the Shetland fashion appears also to differ from that of the old Scottish "brog." Both in Faroe and in Iceland it is termed the "skin-sko," or hide-shoe, and the Shetland name of rivlin must be referred to a British and not a



The rivlin.

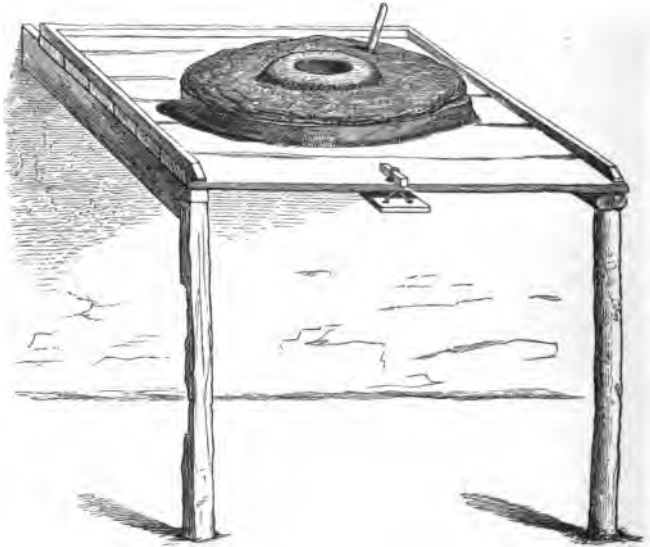
Scandinavian origin. The names of "Red-shanks" and "Rough-footed" were bestowed by the English upon the Scots in early times on account of their wearing shoes of this description. Robert de Brunne, writing of the invasion of Scotland by King Edward I., gives the warning that—

"He sall thee ken our land to bren, and werre bigynne,
Thou getes no thing bot thi rivelyng to hang thee inne."

Minot, in a poem of earlier date than the battle of Bannockburn, speaks of "Rughfute riving." Wyntoun, in his 'Orygynale Cronykil,' written about 1420, speaks about the knights of the Earl of Athole being reduced in their distress to wear "Rewelyns" of hide. Blind Harry uses the same term "Rewlingis" (the *w*, in both instances, in all probability pronounced *v*). Several other early authors refer to it in the same way; and it is indeed curious that this ancient term, so well known for the foot-gear in Scotland in early times, should survive only in the far-off Scandinavian isles of Shetland.

The Quern.

The water-mill of Shetland has already been described. The quern, which existed in primitive communities long before either the water-mill or the windmill was invented, has for a century or more



Shetland hand-quern.

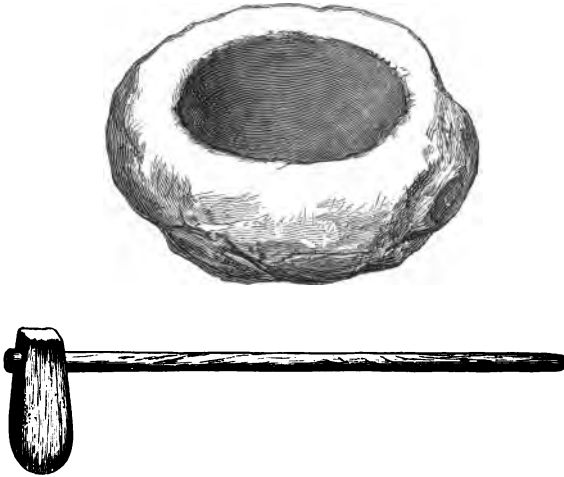
almost entirely disappeared from use in Scotland. It has, nevertheless, continued in active operation in Shetland down to our own day, and is probably not yet entirely extinct.

About thirty years ago, in company with the late Professor Lorimer of Edinburgh, I entered a farm cottage in the island of Bressay, when the goodwife was found actively engaged in grinding at the family quern in a corner before us. This, with the other domestic occupations at which other members of the family were at the moment employed,—one at the spinning-wheel,—gave a striking picture of primitive life, and made a deep impression upon the Professor. This was my last view of the time-honoured Shetland quern in operation.

In the process of grinding the quern is “fed” by the grain being dropped into the “eye” by one hand, while the other hand, grasping the handle, is engaged in quickly revolving the upper stone. The stick, or handle, is shown in the drawing as fixed obliquely in the stone; more usually, so far as I remember, it is placed perpendicularly.

The Knockin'-Stane.

In travelling through country districts in Scotland we not infrequently see at old farm-steadings a big lump of stone with a deep



. Knockin'-stane and mell.

cuplike cavity excavated in its upper side. A first impression is apt to be that this is a font, or a “stoup” for holy water from an

ancient church, but the only information obtainable regarding it is usually that it is a dish for the feeding of the pigs. In reality, however, this is the "knockin'-stane" of other days, the contrivance for the preparation of barley for the broth-pot of the household.

In Shetland the use of the knockin'-stane continued much longer than in Scottish districts, and I have myself seen it frequently in use. The "bere," or native barley, is first carefully prepared by drying, when it is placed in the cavity of the stone and hammered upon by the "mell" or mallet until the husks are bruised off, when the grain is sifted and ready for the pot, or for being ground on the quern.

The stone and mallet here figured (the latter having been procured in Shetland by myself) are both in the Museum. A knockin'-stane centuries old is kept at Braefield in Shetland. Other examples will no doubt be still found elsewhere in the country.

10. THE SKATHALD.¹

This term, common in Shetland deeds and in lawsuits before both the local and the supreme courts, has often proved a puzzling one. Skat (Old Northern *skattr*, Danish *skat*, *tributum*) is the most ancient tax or tribute leviable upon land in Orkney or Shetland, having been exacted apparently during the entire historical period—that is, ever since the islands became, in the ninth century, a dependency of the Crown of Norway. This skat and the other duties paid by the old odal occupiers, who were at the same time mostly proprietors as well, were collected by the Scandinavian Jarls (or Earls), who to a large extent were independent of their distant suzerain in Norway. After the islands passed to the Crown of Scotland the lands and revenues of the Jarldom became vested in the Crown by the contract of excambion with the Earl William St Clair in 1471. These lands and revenues were eventually acquired in 1766 by Sir Laurence Dundas, and are now the property of his descendant the Marquess of Zetland.

The nature and incidence of the skat payment was more than

¹ This article appeared in 'The Scottish Leader' of 5th November 1889.

once the subject of litigation in the eighteenth century between the Dundas family and the heritors, and has also been the subject of literary discussion. Those who maintain that the odal landowners paid no superior duties and acknowledged no superior in any feudal sense claim that skat was not of the nature of a feudal burden exigible by Lord Zetland or his authors, but merely a tax for the maintenance of Government, levied through him as representing the State. The contrary contention of course is that skat having from the earliest times existed in the Rentals of the Earldom, it is simply personal property transmitted with the succession to the Earldom of Orkney and Lordship of Shetland to the present day.

According to the former view, skat, being a Government duty, occupied the place now held by the Scottish land-tax, by which it ought to have been superseded, its continuance side by side with the land-tax subjecting landowners in the islands to a double property tax exacted nowhere else in the kingdom. But in these contentions it does not appear that the origin and real nature of the skat duty have been apprehended. Probably no cotemporaneous record defining the circumstances of its first imposition is in existence, and an understanding on the subject can be reached only by a process of reasoning the results of which may, however, be regarded as approaching pretty nearly to accuracy.

The fundamental principle, as a matter of fact, is usually admitted, that the Scandinavian settlers owned only lands which they had obtained by conquest, or by their own labour—that is to say, the enclosed cultivated land under their own control; and that for such ownership they recognised no superior, and paid no duty implying vassalage. But at the same time it is equally the fact that skat was exacted from those lands from the earliest known period. What, then, is the explanation of the apparent contradiction?

Every one knows that beyond the land appropriated and cultivated by the conqueror, or enclosed and reclaimed in later ages by patient industry, there lay the almost unlimited waste of the hills and the unenclosed pasturage. To this waste no one, in the nature of things, could in equity lay an exclusive claim. This, then, was

the *almenning*, the commony or skathald, vested in the sovereign as representing the community, and for the freedom and use of which skat, or duty, was imposed upon every merk of occupied land having a natural claim to that privilege.

The right of commony thus constituted became in the course of time as inalienable as it was indispensable. In Norse titles this right is indicated by the description of the land conveyed as so many merks, extending “fra den effste stein i fiede til den neste stein i fioren”—*i.e.*, from the highest stone in the hill to the lowest stone in the beach (Shetland deeds, 1544, 1551, &c.) The same is expressed in deeds drawn in the current Scottish, as in the year 1536, “fra the heast stone in the hill to the lawest in the eb”; and in titles of the present day the proportional right of skathald is reserved unless a division has previously been made by which the whole boundaries have been defined. As a rule, the claim of occupied lands to their share of commony or skathald has not been disputed; and in later times processes at law for division of skathald, in which the rights of the smallest holdings have been recognised, have been carried through at great expense.

The authority of the courts of law interposed in this way is but the legal sanction of a right which to every Shetland holding is an indispensable condition, recognised, in the very nature of the case, from the earliest times. To the native farmer the hill or skathald is as necessary on the one hand as is the sea on the other; and to deprive him of its use is as nearly tantamount to the extinction of his means of subsistence as the loss of the freedom of the sea would be. So closely indeed is the skathald identified with the life of the people that frequently a whole district is known and denominated not by the various townships of the occupiers but simply by the name of the “skathald” in which they have their common rights.

To whom, then, do the Shetland skathalds pertain? True it is that the Crown grants to their donatories were expressed in the widest terms, embracing the whole territories of the Earldom and Lordship, with all isles, skerries, holms, mills, multures, fishings, &c. (“firmas terras, insulas, skarreis, lie holmes, cum molendinis, multuris, piscationibus,” &c.), but the skathalds were at the same time previously held under private titles “from hill to sea.” They

do not therefore, in my opinion, pertain to Lord Zetland, though his ancestor Lord Dundas did lay claim to them. No doubt skat duty is still paid to his lordship (where not already bought up by the proprietors) in respect of these skathalds; but it has been explained that in this he in reality represents the State, by whom the skat should never have been alienated to a private holder, the skat paid by former or present landlords being in reality only of the nature of rent or duty to the Crown for the privilege of the use of the skathald by themselves or their tenants. Assuming, then, that the skathalds are the property of private owners, this ownership is not as apart from, or independent of, the occupied holdings, but only as an inseparable adjunct thereof. Occupants therefore have an indefeasible claim to them as a pertinent of their holdings for all rights of freedom and pasturage.

It may in the altered conditions of modern times be competent and reasonable for the larger landlords to regulate the use of the skathald by an adjustment of rent, allocating a portion of rent for the skathald relative to the extent of stock placed upon it. But wholly to enclose the skathald as sheep-runs, and to deprive the people of the use of it, or of access to it, is an infringement of immemorial usage, and, in the primitive conception of rural economy, wholly unworkable.

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